

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

FEB 20 2009

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

DAVID HENDERSON,

Plaintiff,

v.

Civil Action No.

09 0339

CHRIS ESTRADA,

U.S. Postal Inspector,

Defendant.

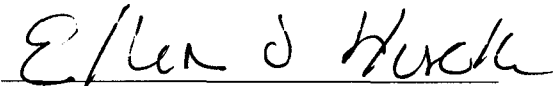
MEMORANDUM OPINION

This matter is before the Court on consideration of plaintiff's application to proceed *in forma pauperis* and *pro se* complaint. The Court will grant the application, and will dismiss the complaint for lack of subject matter jurisdiction.

Plaintiff alleges that defendant Estrada conspired with others to interfere with, delay or destroy plaintiff's mail. *See* Compl. at 1-2. This interference with the mail "is part of a massive conspiracy [a]rising from plaintiff's work as an intelligence officer with the U.S. State Department . . . and service in a military reserve unit." *Id.* at 2. He demands \$100 million plus punitive damages. *Id.*

The elements of civil conspiracy are "(1) an agreement between two or more persons; (2) to participate in an unlawful act, or a lawful act in an unlawful manner; (3) an injury caused by an unlawful overt act performed by one of the parties to the agreement; (4) which overt act was done pursuant to and in furtherance of the common scheme." *Halberstam v. Welch*, 705 F.2d 472, 477 (D.C. Cir. 1983). Conclusory allegations of an agreement will not suffice. *Brady v. Livingood*, 360 F. Supp. 2d 94, 104 (D.D.C. 2004) (mere allegation that defendants "agreed

among themselves” to subject plaintiff to discriminatory acts, without alleging facts suggesting that the defendants were acting in concert in furtherance of a shared goal of discriminating against him not sufficient) (footnote and citations omitted). Because plaintiff has not alleged facts to support his conspiracy claim, the complaint will be dismissed for failure to state a claim upon which relief can be granted. An Order consistent with this Memorandum Opinion is issued separately on this same date.


United States District Judge

Date: 2/10/09