

FILED

JAN 29 2010

**Clerk, U.S. District and
Bankruptcy Courts**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Alfred Wayne Lee,

Plaintiff,

v.

United States Department of Justice *et al.*,

Defendants.

Civil Action No.

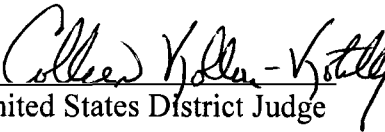
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MEMORANDUM OPINION

This matter is before the Court on review of plaintiff's *pro se* complaint and application to proceed *in forma pauperis*. The application will be granted and the complaint will be dismissed pursuant to 28 U.S.C. § 1915A (requiring dismissal of a prisoner's complaint upon a determination that the complaint, among other grounds, fails to state a claim upon which relief can be granted).

Plaintiff is a prisoner at the Federal Correctional Institution in Miami, Florida. He sues the Department of Justice and employees of the Executive Office for United States Attorneys and the United States Attorney for the Southern District of Florida for allegedly violating his "civil rights" during his civil case in the Southern District of Florida. Specifically, plaintiff alleges that defendants provided "false, misleading, inadequate, and inaccurate information/sworn declarations" while defending against his Freedom of Information Act complaint. Compl. at 1. The gravamen of this complaint is a challenge to the defendants' arguments made and evidence proffered in support of their summary judgment motion in the FOIA case, which was granted. *See id.* at 4-5. Plaintiff seeks \$15 million in monetary damages. *Id.* at 21.

Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), federal officials may be held personally liable for violating an individual's constitutional rights while acting under color of federal authority. Plaintiff has not specified the constitutional right of which he was allegedly deprived. To the extent that it is his right to due process, the proceedings in the Southern District of Florida would have provided him ample opportunity to challenge the agency's responses to his FOIA request and to the complaint. *Cf. Johnson v. Executive Office for U.S. Attorneys*, 310 F.3d 771, 777 (D.C. Cir. 2002) ("[T]he comprehensiveness of FOIA precludes the creation of a *Bivens* remedy" against federal officials.) The Court therefore finds that plaintiff has stated no claim for relief. A separate Order of dismissal accompanies this Memorandum Opinion.


United States District Judge

Date: January 18, 2010