

FILED

JUN - 4 2010

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Griffin Smith,

Plaintiff,

v.

Duane B. Delaney, Esq.

Defendant.

Civil Action No.

10 0919

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, an inmate at the United States Penitentiary Hazelton in Bruceton Mills, West Virginia, seeks to compel via a writ of mandamus the Clerk of the Superior Court of the District of Columbia to process his request for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. This Court is not authorized to issue a writ of mandamus against District of Columbia officials because its mandamus powers extend only to "officer[s] or employee[s] of the United States[.]" 28 U.S.C. § 1361. In addition, the Superior Court is not subject to the federal FOIA, which applies only to executive-branch agencies of the United States. *See* 5 U.S.C. § 552(f) (defining agency as "any executive department. . . Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government . . . , or any independent regulatory agency"). Plaintiff's recourse lies, if at all, in the District of

Columbia courts under common law. *See Hill v. Federal Judicial Center*, 238 Fed.Appx. 622, 623 (D.C. Cir. 2007) (stating that “courts have long recognized a common-law right of access to public records that stands independently of the Freedom of Information Act”) (citations omitted).

A separate Order of dismissal accompanies this Memorandum Opinion.

Date: May 18, 2010


United States District Judge