

FILED

SEP - 7 2012

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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Brian Anderson,

Plaintiff,

v.

Federal Bureau of Prisons,

Defendant.

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Civil Action No.

12 1478

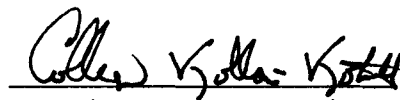
MEMORANDUM OPINION

This matter is before the Court on its initial 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 fails to state a claim upon which relief may be granted).

Plaintiff is a prisoner at the Federal Correctional Institution in Bastrop, Texas, suing under the Privacy Act, 5 U.S.C. § 552a. Plaintiff seeks correction of alleged erroneous information contained in his inmate central file and declaratory relief. See Compl. at 1, 3.

Plaintiff's claim fails because BOP has exempted its Inmate Central Record System from the Privacy Act's accuracy and amendment requirements (subsections (d) and (e)(5)). 28 C.F.R. § 16.97(a)(4); *White v. United States Probation Office*, 148 F.3d 1124, 1125 (D.C. Cir. 1998) (per curiam) ("Under regulations . . . presentence reports and BOP inmate records systems are exempt from the amendment provisions of the Act"); see *Martinez v. Bureau of Prisons*, 444

F.3d 620, 624 (D.C. Cir. 2006) ("The BOP has exempted its Inmate Central Record System from the accuracy provisions of the Privacy Act[.]") (citations omitted). And "[h]aving exempted its records from the substantive provision regarding the agency's record keeping obligations, BOP effectively deprives litigants of a remedy for any harm caused by the agency's substandard recordkeeping." *Ramirez v. Dep't of Justice*, 594 F. Supp. 2d 58, 65 (D.D.C. 2009), *aff'd*, No. 10-5016, 2010 WL 4340408 (D.C. Cir. Oct. 19, 2010) (per curiam); *see Lopez v. Huff*, 508 F. Supp. 2d 71, 77 (D.D.C. 2007) ("To the extent that plaintiff is seeking to have his [presentence investigation report] amended, such relief is not available because the BOP has properly exempted its inmate central files, where such documents are kept, from the [Privacy Act's] amendment requirements.") (citations omitted). The Court cannot award declaratory relief in the absence of a claim. *Ali v. Rumsfeld*, 649 F.3d 762, 778 (D.C. Cir. 2011). A separate Order of dismissal accompanies this Memorandum Opinion.


United States District Judge

DATE: August 21, 2012