

FILED

AUG 28 2013

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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Clyde Lacy Rattler,)
)
Petitioner,)
)
v.)
)
Department of Health)
and Human Services,)
)
Respondent.)

Civil Action No.

13-1300

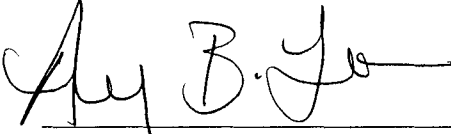
MEMORANDUM OPINION

This matter is before the Court on initial review of the *pro se* complaint and application for leave to proceed *in forma pauperis*. Pursuant to 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint upon a determination that it, among other grounds, fails to state a claim upon which relief can be granted or is frivolous. 28 U.S.C. § 1915(e)(2)(B).

Petitioner is a District of Columbia resident seeking a writ of mandamus against the Department of Health and Human Services. The extraordinary remedy of a writ of mandamus is available to compel an "officer or employee of the United States or any agency thereof to perform a duty owed to plaintiff." 28 U.S.C. § 1361. The petitioner bears a heavy burden of showing that his right to a writ of mandamus is "clear and indisputable." *In re Cheney*, 406 F.3d 723, 729 (D.C. Cir. 2005) (citation omitted). It is well settled that a writ of mandamus is not available to compel discretionary acts. *See Cox v. Sec'y of Labor*, 739 F. Supp. 28, 30 (D.D.C. 1990) (citing cases).

Petitioner alleges that he applied for supplemental security income ("SSI") "on or about 1983 due to his deform [sic] right elbow . . ." and was denied. Compl. at 1. Petitioner admits

that he received a final decision, Compl. at 2, and he does not seek to compel any action on his application or administrative appeal. Rather, petitioner seeks a writ of mandamus to compel “the human race to go naked on the sidewalk for eternity unable to move no part of their body and award petitioner super natural power the right for him to do as he wishes.” *Id.* The Court previously dismissed as frivolous plaintiff’s similarly pled complaints, *see Rattler v. Dep’t of Health and Human Servs.*, No. 13-0786, slip op. at 1 (D.D.C. May 30, 2013) (citing cases), and it will take the same action here. A separate Order of dismissal accompanies this Memorandum Opinion.


United States District Judge

Date: August 16, 2013