

**FILED**

**NOV 09 2017**

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

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ROGER DAY,

Plaintiff,

v.

TREASURER OF THE UNITED STATES,

Defendant.

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Civil Action No. 17-1958 (UNA)

**MEMORANDUM OPINION**

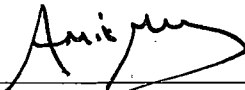
This matter is before the Court on the plaintiff's application to proceed *in forma pauperis* and his *pro se* civil complaint. The application will be granted, and the complaint will be dismissed.

The plaintiff, a federal prisoner, "has made application to the President [under] 50 U.S.C. § 4309(a)," Compl. ¶ 1, claiming "an interest, right, and/or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian" in his name or in connection with his criminal case or Social Security Number, *id.* ¶ 4. The statute of which the plaintiff relies, the Trading with the Enemy Act, *see* 50 U.S.C. § 4309(a) (formerly 50 App. U.S.C. § 9(a)), pertains to money or property seized from a foreign enemy or ally of a foreign enemy. Nothing in the complaint suggests that this prisoner plaintiff raises a claim with "an arguable basis in law and fact." *Brandon v. District of Columbia Bd. of Parole*, 734 F.2d 56, 59 (D.C. Cir. 1984). Rather, because the complaint appears to be based on "fanciful factual allegations[]," it is subject to dismissal as frivolous. *Neitzke v. Williams*, 490

U.S. 319, 328 (1989); *see Johnson v. United States*, No. 09-0101, 2009 WL 113768 (D.D.C. Jan. 19, 2009) (dismissing as frivolous prisoner's claim under Trading with the Enemy Act).

An Order consistent with this Memorandum Opinion is issued separately.

DATE: 11/25/17

  
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United States District Judge