

FILED

FEB 26 2009

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Mark L. Neff,)
)
Plaintiff,)
)
v.)
)
)
Roger E. Walker, Jr., et al.,)
)
Defendants.)

Civil Action No. 09 0386

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 in Terre Haute, Indiana, sues the Director and the Freedom of Information Act Officer of the Illinois Department of Corrections ("DOC") under 42 U.S.C. § 1983. He alleges that in response to his Freedom of Information Act ("FOIA") request for a document, DOC referred him to the Illinois Prisoner Review Board, which, in turn, has not responded to his request. Section 1983 authorizes a cause of action against state actors who deprive individuals of "any rights, privileges, or immunities secured by the Constitution and [federal] laws." *Id.* The federal FOIA 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

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agency”). The state officials therefore may not be held liable for what at best would be a violation of federal law.¹ Plaintiff’s recourse lies, if at all, in the Illinois state courts under the Illinois FOIA. A separate Order of dismissal accompanies this Memorandum Opinion.

Date: February 3, 2009


United States District Judge

¹ The comprehensive nature of the federal FOIA forecloses a claim against individuals under § 1983. See *Johnson v. Executive Office for United States Attorneys*, 310 F.3d 771, 777 (D.C. Cir. 2002).