

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JUN - 5 2012

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

Anthony Brodzki,)
)
Plaintiff,)
)
v.)
)
United States of America,)
)
Defendant.)

Civil Action No. **12 0898**


MEMORANDUM OPINION

This matter is before the Court on its initial review of plaintiff’s complaint against the United States and his application to *proceed in forma pauperis*. The application will be granted and the case will be dismissed for lack of subject matter jurisdiction. *See* Fed. R. Civ. P. 12(h)(3) (requiring dismissal of an action “at any time” the Court determines that it lacks subject matter jurisdiction).

Plaintiff, a resident of North Richland Hills, Texas, sues the United States for \$50 million in damages alleging that the Justice Department was complicit in his being raped and tortured from 1968 to 1970. Plaintiff also seeks a temporary restraining order “to stop the justice department for privacy and torture and electronic torture occurring as retaliation.” Compl. at 2 (page number supplied). He has provided no factual basis for granting such extraordinary relief.

A claim for monetary damages against the United States is cognizable under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 2671 *et seq.* Such a claim is maintainable, however, only after the plaintiff has exhausted administrative remedies by “first present[ing] the claim to the appropriate Federal agency. . . .” 28 U.S.C. § 2675. This exhaustion requirement is

jurisdictional. *See GAF Corp. v. United States*, 818 F.2d 901, 917-20 (D.C. Cir. 1987); *Jackson v. United States*, 730 F.2d 808, 809 (D.C. Cir. 1984); *Stokes v. U.S. Postal Service*, 937 F. Supp. 11, 14 (D.D.C. 1996). Plaintiff has not indicated that he exhausted his administrative remedies under the FTCA. Therefore, this case will be dismissed.¹ *See Abdurrahman v. Engstrom*, 168 Fed.Appx. 445, 445 (D.C. Cir. 2005) (per curiam) (“[T]he district court properly dismissed case [based on unexhausted FTCA claim] for lack of subject matter jurisdiction.”); *Brodzki v. United States of America*, Civ. Action No. 12-0164 (D.D.C. Jan. 31, 2012) (finding same). A separate Order accompanies this Memorandum Opinion.


United States District Judge

Date: May 21, 2012

¹ Plaintiff states that he is also “suing the justice department for not disclosing the names of the rapist,” Compl. at 2, but he has not alleged that he requested records from the Department of Justice under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and was denied. A properly submitted FOIA request and the exhaustion of administrative remedies are prerequisites to obtaining judicial review of an agency’s denial of records. *See Hidalgo v. Federal Bureau of Investigation*, 344 F.3d 1256, 1258-60 (D.C. Cir. 2004); *Oglesby v. Dep’t of the Army*, 920 F.2d 57, 61 (D.C. Cir. 1990).