

FILED

MAY 17 2010

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

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

Lester Jon Ruston,)
)
Plaintiff,)
)
v.)
)
United States of America et al.,)
)
Defendants.)

Civil Action No.: 10 0805

MEMORANDUM OPINION

The plaintiff has filed an application to proceed without prepayment of fees and a pro se complaint. The application will be granted, and the complaint will be dismissed.

Plaintiff Lester Jon Ruston¹ brings this complaint for declaratory relief under the Administrative Procedures Act, 5 U.S.C. § 501 et seq., and for damages under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. Complaint ¶¶ 37-38. Ruston alleges that through the tortious acts of multiple employees of the United States, he has been denied access to various courts, suffered damages due to false advertising and fraud, was deprived of rights secured by both statute and the United States Constitution, and has been injured by libel, slander and defamation. *See id.* ¶ 1. He alleges a conspiracy involving Assistant United States Attorney Richard Alan Calvert, Jr., and others, to impede and steal his mail, *see id.* ¶¶ 12-16, and refers to “the alleged criminal insanity of defendant Richard Alan Calvert, Jr.,” *id.* ¶ 25. He further alleges that the Postmaster General ignored his reports of mail fraud, and that the Postmaster General and another defendant engaged in false advertising by repeatedly charging Ruston for

¹ Ruston is a prisoner currently confined at the United States Medical Center for Federal prisoners in Springfield Missouri, having been found not guilty by reason of insanity for threatening to assault and murder a federal magistrate judge. *See United States v. Ruston*, 565 F.3d 892, 894 (5th Cir. 2009).

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certified, return-receipt-requested mail service, but failing to provide that service. *See id.* ¶¶ 23-24. As relief, Ruston “requests an award of damages under the FTCA against the USA for the tortious act of civil conspiracy,” “retaliation battery,” and “malicious prosecution” allegedly committed by federal employees. *Id.* ¶¶ 33-35.

This complaint appears to arise from “factual contentions [that] are clearly baseless” and that “describ[e] fantastic or delusional scenarios.” *See Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989) (determining that courts have the “unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless”).² As such, the complaint warrants dismissal.

Accordingly, this complaint will be dismissed as frivolous. A separate order accompanies this memorandum opinion.

Date:

5/7/10


United States District Judge

² This determination is consistent with Ruston’s history of delusional thinking.

Ruston has an extensive history of irrational behavior paired with multiple diagnoses documenting his mental illness. It is important to note that the psychiatrists who examined Ruston found that he suffered from either a delusional disorder or paranoid schizophrenia. After examining Ruston’s history, it is apparent to the Court that he has an extensive history of irrational behavior as a direct result of delusions. Specifically, Ruston believes that various law enforcement agencies, members of the judiciary, and possibly Katie Couric are engaged in a plot to murder him.

United States v. Ruston, 565 F.3d at 902. *See also Ruston v. Church of Jesus Christ of Latter Day Saints*, 304 Fed. Appx. 666, *1-2 (10th Cir. Dec. 19, 2008) (determining that Ruston’s complaint against the church and several relatives for alleged conspiracies to destroy his small business, violate international law and the Convention Against Torture, and to commit acts of stalking, kidnaping, attempted murder, torture, slander, robbery, bribery, and mail fraud was frivolous).