

In the United States Court of Federal Claims

NOT FOR PUBLICATION

No. 07-468C

(Filed: July 12, 2007)

* * * * *

RICHARD NORMAN ST. CLOUD,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

* * * * *

**ORDER DISMISSING CASE FOR
LACK OF SUBJECT MATTER JURISDICTION**

Before the court is pro se plaintiff Richard Norman St. Cloud’s (“plaintiff” or “St. Cloud”) complaint filed June 28, 2007. The plaintiff, a Native American who is 15/32 Yankton Sioux and 7/16 Ponca, is currently serving concurrent sentences in the South Dakota State Penitentiary after being convicted in South Dakota Circuit Court in December 1989 on charges of first-degree rape and kidnapping. From 1988 through 1996, Mr. St. Cloud was involved in litigation in federal and state courts related to the charges on which he was ultimately convicted in South Dakota. See St. Cloud v. United States, 702 F. Supp. 1456 (D.S.D. 1988); St. Cloud v. Class, 550 N.W.2d 70 (S.D. 1996); St. Cloud v. Leapley, 521 N.W.2d 118 (S.D. 1994); State v. St. Cloud, 465 N.W.2d 177 (S.D. 1991). In his complaint, Mr. St. Cloud seeks “equitable relief from the prison system and release from custody.” Compl. at 7. In particular, Mr. St. Cloud alleges that he has been illegally incarcerated by the federal government and the State of South Dakota since August 20, 1986 and requests that the court vacate his sentence with

prejudice and allow him to “file for just compensation” against the United States and South Dakota. Compl. at 3. Mr. St. Cloud contends that neither the United States nor South Dakota had subject matter jurisdiction to convict and incarcerate him, because he is an Indian of both Ponca and Sioux heritage. *Id.* Finally, Mr. St. Cloud contends that his conviction and subsequent incarceration by the State of South Dakota violated the Eighth Amendment as cruel and unusual punishment, violated the double jeopardy clause of the Fifth Amendment, and violated his due process rights. *Id.* Mr. St. Cloud does not assert a specific money-mandating statute under which his cause of action arises.

Because Mr. St. Cloud is proceeding *pro se*, he is entitled to a liberal construction of his pleadings. *See, e.g., Hughes v. Rowe*, 449 U.S. 5, 9 (1980) (quoting *Haines v. Kerner*, 404 U.S. 519, 520 (1972)) (holding that *pro se* complaints be held to “less stringent standards than formal pleadings drafted by lawyers”); *McSheffrey v. United States*, 58 Fed. Cl. 21, 25 (2003). However, a *pro se* plaintiff must still satisfy the court’s jurisdictional requirements. *Bernard v. United States*, 59 Fed. Cl. 497, 499, *aff’d*, 98 Fed. Appx. 860 (Fed. Cir. 2004), *reh’g denied*, 48 Fed. Appx. 860 (Fed. Cir. 2004) (“This latitude, however, does not relieve a *pro se* plaintiff from meeting jurisdictional requirements.”).

Indeed, the court “may and should raise the question of its jurisdiction *sua sponte* at any time it appears in doubt.” *Calhoun v. United States*, 98 Fed. Appx. 840, 842 (Fed. Cir. 2004) (quoting *Arctic Corner, Inc. v. United States*, 845 F.2d 999, 1000 (Fed. Cir. 1988)). “[C]ourts must always look to their jurisdiction, whether the parties raise the issue or not.” *View Eng’g Inc. v. Robotic Vision Sys., Inc.*, 115 F.3d 962, 963 (Fed. Cir. 1997). Rule 12(h)(3) of the Rules of the United States Court of Federal Claims (“RCFC”) requires that “[w]henver it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.” (emphasis added). Under RCFC 8(a)(1), a complaint must contain “a short and plain statement of the grounds upon which the court’s jurisdiction depends.” “Determination of jurisdiction starts with the complaint, which must be well-pleaded in that it must state the necessary elements of the plaintiff’s claim, independent of any defense that may be interposed.” *Holley v. United States*, 124 F.3d 1462, 1465 (Fed. Cir. 1997).

The Court of Federal Claims is a court of limited jurisdiction, *Bath Iron Works Corp. v. United States*, 27 Fed. Cl. 114, 122 (1992), *aff’d* 20 F.3d 1567 (Fed. Cir. 1994), and under the Tucker Act, 28 U.S.C. § 1491 (2000), may “render judgment upon any claims against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated damages in cases not sounding in tort.” 28 U.S.C. § 1491(a)(1). However, the Tucker Act simply confers jurisdiction on this

court; a plaintiff must also identify a separate money-mandating statute upon which to base a claim for damages. See, e.g., Fisher v. United States, 402 F.3d 1167, 1172 (Fed. Cir. 2005) (“[I]n order to come within the jurisdictional reach and the waiver of the Tucker Act, a plaintiff must identify a separate source of substantive law that creates the right to money damages.”); Todd v. United States, 386 F.3d 1091, 1094 (Fed. Cir. 2004); Tippett v. United States, 185 F.3d 1250, 1254 (Fed. Cir. 1999) (“[T]he plaintiff must assert a claim under a separate money-mandating constitutional provision, statute, or regulation, the violation of which supports a claim for damages against the United States.”) (quoting James v. Caldera, 159 F.3d 573, 580 (Fed. Cir. 1998)).

In the complaint, Mr. St. Cloud does not identify any money-mandating statute or regulation which could provide the court with jurisdiction over his claim, nor does he assert specific damages for which he seeks compensation from the government. The heart of Mr. St. Cloud’s complaint is his request that his sentence in the State of South Dakota be vacated, which this court has no jurisdiction to consider. Even if his complaint is read in the light most favorable to the plaintiff, it cannot be read to state any claim falling within this court’s jurisdiction. For this reason, and in the interest of the efficient use of judicial resources, Mr. St. Cloud’s complaint is hereby dismissed.

For all of the foregoing reasons, the plaintiff’s complaint is **DISMISSED** for lack of subject matter jurisdiction. The Clerk of the court is directed to enter judgment accordingly.

IT IS SO ORDERED.

s/Nancy B. Firestone
NANCY B. FIRESTONE
Judge_