

In the United States Court of Federal Claims

Case No. 08-385C
FOR PUBLICATION
Filed: August 6, 2008

JOHN BRAMLETT WADE, III,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

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Subject Matter Jurisdiction;
Pro se Plaintiff; Maritime
Jurisdiction; Rule 12(b)(1);
Tort Claims; Due Process Claims;
Equal Protection Claims.

John Bramlett Wade, III, Chicago, Illinois, Pro se.

Jane C. Dempsey, Trial Attorney, Commercial Litigation Branch, Department of Justice, Washington D.C., with whom were Franklin E. White, Jr., Assistant Director, Jeanne E. Davidson, Director, and Gregory G. Kastis, Assistant Attorney General, for Defendant.

OPINION and ORDER

Plaintiff filed his complaint arguing violations of 28 U.S.C. § 1333, 1337 (2006). Thereafter Defendant filed a Motion for Summary Dismissal pursuant to Rule 12(b)(1) in the interest of avoiding the need for the parties to participate in unnecessary briefing or case management.

This Court holds the pleadings of *pro se* plaintiffs to “less stringent standards than formal pleadings drafted by lawyers.” *Haines v. Kerner*, 404 U.S. 519, 520 (1972). Therefore, as Plaintiff is proceeding *pro se*, the pleadings are construed liberally. Accordingly, the Court must examine the pleadings to see if Plaintiff has a cause of action, even if not clearly articulated. *Sumner v. United States*, 71 Fed. Cl. 627, 628 (2006). However, “there is no duty on the part of the trial court to create a claim which appellant has not spelled out in his pleading.” *Scogin v. United States*, 33 Fed. Cl. 285, 293 (1995)(internal quotation and punctuation marks omitted). Moreover, “a complaint that is confusing makes it difficult for the defendant to file a responsive pleading and makes it difficult for the trial court to conduct orderly litigation.” *Id.*

The facts of this case are difficult to construe based on Plaintiff’s complaint. Even liberally construed, this Court has great difficulty in understanding Plaintiff’s claims. It appears that Plaintiff seeks relief based upon two statutes. First, 28 U.S.C. § 1333(1) specifically provides that, “the district court shall have original jurisdiction . . . of any civil case of admiralty or maritime

jurisdiction.” Second, 28 U.S.C. § 1337(a) states, “the district shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies.” Here, Plaintiff is invoking two statutes that are outside this Court’s purview and, therefore, this Court lacks jurisdiction to hear any matter under these statutes.

If Plaintiff’s claims are construed as violations of the Due Process Clause and Equal Protection Clause, they still must fail. The Tucker Act grants that this Court, “[Shall] have jurisdiction to render judgment upon any claim 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 or unliquidated damages in cases not sounding in tort.” 28 U.S.C. § 1491(a)(1)(2006). While this Court has jurisdiction over claims described by the Tucker Act, such claims must be paired with a specific grant of a right of action. *United States v. Testan*, 424 U.S. 392, 400 (1976). Plaintiff must identify a money-mandating federal statute that requires compensation to be paid by the Federal Government. *Id.* The Due Process Clause and the Equal Protection Clause are not money-mandating, and claims based upon these provisions are beyond the jurisdiction of the Court. *See e.g., Crocker v. United States*, 125 F.3d 1475, 1476 (Fed. Cir. 1997); *LeBlanc v. United States*, 50 F.3d 1025, 1028 (Fed. Cir. 1995). Plaintiff fails to provide a money-mandating statute and, therefore, the claims must be dismissed for lack of jurisdiction.

And lastly, as far as the Court can discern, Plaintiff also claims “Libellees, its Officer & Agents and Co-Parties are committing SCIENTER ACTS (omitting knowledge) in Bad Faith, Fraud Conspiracy, Undue Enrichment, Aiding and Abetting, and Wanton, Irreparable Harm, with Malice and Forethought, Conversion, Commercial War, Commercial Credit Slander and continuous torts.” Compl. at 5. As these claims are an assortment of tort claims, they too fall outside this Court’s jurisdiction. *See* 28 U.S.C. § 1491(a)(1).

For the foregoing reasons, the Court hereby **GRANTS** Defendant’s Motion to Dismiss. The Clerk is **DIRECTED** to **DISMISS** Plaintiff’s complaint.

It is so ORDERED.

LOREN A. SMITH
SENIOR JUDGE