

In The United States Court of Federal Claims

No. 10-821C

This Opinion Will Not Be Published in the U.S. Court of Federal Claims Reporter Because It Does Not Add Significantly to the Body of Law.

(Filed: June 7, 2011)

AUGUSTINE PEREZ &
\$15,716.00 IN U.S. CURRENCY,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

OPINION and ORDER

On November 29, 2010, plaintiff, Augustine Perez, filed a complaint in this court requesting that the court “review the judgment(s) that rest entirely on fraudulent conduct by judicial officials” in conducting a civil forfeiture hearing. He claims that various “courts’ inaction [has] deprived him of meaningful access to the courts in violation of due process, equal protection under the law and civil rights.” He seeks “[c]ompounded interest on the principle of \$15,716.00 and the \$1,571.00 bond posted for the last 22 years,” as well as “[t]he actual and potential damage[s] caused to a legitimate business totaling \$3,672,000.00.” On January 23, 2011, defendant filed a motion to dismiss this complaint under RCFC 12(b)(1).

Deciding a motion to dismiss “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) (citations omitted); *see also Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The plaintiff must establish that the court has subject matter jurisdiction over its claims. *Reynolds v. Army & Air Force Exch. Serv.*, 846 F.2d 746, 748 (Fed. Cir. 1988); *Hansen v. United States*, 65 Fed. Cl. 76, 94 (2005). This court recognizes that plaintiff is acting *pro se* before this court, and thus the court will hold the form of plaintiff’s submissions to a less stringent standard than those drafted by an attorney. *See Reed v. United States*, 23 Cl. Ct. 517, 521 (1991) (citing *Estelle v. Gamble*, 429 U.S. 97 (1976)). Having reviewed plaintiff’s complaint, defendant’s motion and the briefing on

that motion, this court, however, is certain that it lacks jurisdiction to consider the claims that plaintiff raises.

With very limited exceptions, the jurisdictional statutes governing this court grant it authority only to issue judgments for money against the United States and then, only when they are grounded in a contract, a money-mandating statute, or the “takings clause” of the Fifth Amendment. *See United States v. Testan*, 424 U.S. 392 (1976); 28 U.S.C. §1491. This court does not have jurisdiction to adjudicate claims arising under the due process clause of the Fifth Amendment, or the equal protection clause of the Fourteenth Amendment. *See Casa de Cambio Comdiv S.A., de C.V. v. United States*, 291 F.3d 1356, 1363 (Fed. Cir. 2002), *cert. denied*, 528 U.S. 921 (2003); *Mullenberg v. United States*, 857 F.2d 770, 773 (Fed. Cir. 1988); *Blassingame v. United States*, 33 Fed. Cl. 504, 505 (1995), *aff’d*, 73 F.3d 379 (Fed. Cir. 1995), *cert. denied*, 517 U.S. 1237 (1996). Nor does it have jurisdiction to entertain general civil rights claims that are not based upon an appropriate money-mandating provision. *See, e.g., Sanders v. United States*, 34 Fed. Cl. 75, 80 (1995), *aff’d*, 104 F.3d 376 (Fed. Cir. 1996), *cert. denied*, 522 U.S. 1036 (1997); *Martinez v. United States*, 26 Cl. Ct. 1471, 1476 (1992), *aff’d*, 11 F.3d 1069 (Fed. Cir. 1993). Nor does this court hear claims seeking review, collateral or otherwise, of federal civil forfeitures. *See Crocker v. United States*, 125 F.3d 1475, 1476-77 (Fed. Cir. 1997); *Wayne ex rel., MYHUB Group, LLC v. United States*, 95 Fed. Cl. 475, 478 (2010); *Gahagan v. United States*, 72 Fed. Cl. 157, 163 (2006). Finally, this court lacks jurisdiction to consider claims against individual Federal government officials, *see Frank’s Livestock & Poultry Farm, Inc. v. United States*, 17 Cl. Ct. 601, 607 (1989), *aff’d*, 905 F.2d 1515 (Fed. Cir. 1990), including claims against Federal judges, *see Whyte v. United States*, 59 Fed. Cl. 493, 496-97 (2004).

Accordingly, this court thus lacks jurisdiction over all of plaintiff’s claims. Based on this conclusion, the court **GRANTS** defendant’s motion to dismiss the complaint under RCFC 12(b)(1). The Clerk shall dismiss the complaint.

IT IS SO ORDERED.

s/Francis M. Allegra

Francis M. Allegra

Judge