

# In the United States Court of Federal Claims

No. 05-201L

Filed July 11, 2005

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SOVEREIGN GOVERNMENT OF  
LITTLE SHELL PEMBINA BAND  
OF NORTH AMERICA, *ex rel.*,

IN RE: KENNY WAYNE,

Plaintiff(s),

v.

THE UNITED STATES,

Defendant.

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## ORDER

On February 8, 2005, plaintiffs, the Sovereign Government of Little Shell Pembina Band of North America (“SGLSPNA”), and Kenneth Wayne Leaming, an alleged SGLSPNA member, filed a Complaint (“Compl.”) in the United States Court of Federal Claims. On April 15, 2005, the United States (“Government”) filed a Motion to Dismiss for lack of subject matter jurisdiction, pursuant to RCFC 12(b)(1) and for failure to state a claim upon which relief can be granted, pursuant to RCFC 12(b)(6). A response to the Government’s Motion to Dismiss was due May 16, 2005, but no response was filed. The court granted plaintiffs leave to file a response no later than June 15, 2005, but no response was filed on that date.

The Complaint alleges claims sounding in tort, arising from Leaming’s arrest and imprisonment for operating an unregistered aircraft without an airman’s certificate in violation of 49 U.S.C. §§ 46306(b)(6), (7). *See* Compl. at 6-7. The United States Court of Federal Claims does not have subject matter jurisdiction over claims sounding in tort. *See* 28 U.S.C. §1491(a)(1).

For these reasons, the Government’s April 15, 2005 Motion to Dismiss is granted.

The Clerk of the Court is ordered to dismiss the February 8, 2005 Complaint.

**IT IS SO ORDERED.**

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SUSAN G. BRADEN  
Judge