

In the United States Court of Federal Claims

No. 10-803 C

(Filed: December 1, 2010)

)	
DERRICK DEVON GRIFFIN,)	
)	Sua Sponte Dismissal Pursuant
Plaintiff,)	to RCFC 12(h)(3) for Lack of
)	Subject Matter Jurisdiction
)	
v.)	
)	
THE UNITED STATES,)	
)	
Defendant.)	
)	

Derrick Devon Griffin, Crawford, FL, pro se.

Jessica R. Toplin, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, DC, for defendant.

OPINION AND ORDER

HEWITT, Chief Judge

Before the court is plaintiff’s Complaint (Compl.), filed November 12, 2010, Docket Number 1.¹ The Complaint was captioned by plaintiff as follows: “United States of America ex. rel. Derrick Devon Griffin, Plaintiff’s [sic] v. State of Florida, Incorporated and Muncipl [sic] Corporations (Counties); Judicial Ministers[;] Chief Justice of Florida Supreme Court . . . ; Chief Judge of the Florida District Court of Appeals . . . ; Chief Judge of the Circuit/ County Court . . . ; Administrative Counsels[;] State of Florida Attorney General . . . ; State Attorney’s [sic] . . . ; Third Persons . . . ; Chief Clerk of the Florida Supreme Court . . . ; Chief Clerk of the District Court of

¹Plaintiff also submitted an Application to Proceed In Forma Pauperis. Docket Number 2. For the limited purpose of filing his Complaint (Compl.) only, plaintiff’s application is GRANTED. Accordingly, the Clerk is directed to file the Complaint with no filing fee.

Appeals . . . ; Chief Clerk of the Circuit/ County Court . . . [,] Defendant(s).”²³ Compl. 1-2. The official caption of the case was supplied by the office of the Clerk of Court in conformance with Rule 10(a) of the Rules of the United States Court of Federal Claims (RCFC), which states that “[t]he title of the complaint must name all parties . . . with the United States designated as the party defendant.” RCFC 10(a).

For the following reasons, the court DISMISSES plaintiff’s Complaint pursuant to RCFC 12(h)(3), which states that “if the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” RCFC 12(h)(3).

I. Background

Pro se plaintiff Derrick Devon Griffin (plaintiff or Mr. Griffin) asserts that he is filing his Complaint “on behalf of the United States of America,” Compl. 4, 6, 15; see also Compl. 1 (showing the caption of the case as “United States of America ex. rel. Derrick Devon Griffin”), against the State of Florida, all of the counties in Florida, and numerous state and county officials and employees, Compl. 1-2. Mr. Griffin cites the False Claims Act, 31 U.S.C. §§ 3729-3733 (2006), see Compl. 2, 9, 10, and appears to allege that the state and counties have “defrauded the United States” by permitting judges, state attorneys, sheriffs, clerks, and other state and county employees to perform their jobs and earn wages without first taking a valid oath of office. See Compl. 6-15. Mr. Griffin requests that the court “[d]eclare that Florida Statute §876.05 - § 876.10 requirement is still mandatory,” Compl. 14, “[d]eclare that Florida Statute § 99.021 requirement is still mandatory,” Compl. 14, “[d]eclare that Florida Statute §105.031 (4)(b) requirements [are] still mandatory,” Compl. 14, declare the employment contracts of various state and local employees void, see Compl. 15, and require Florida to “reimburse the United States of America’s Federal Treasury,” Compl. 15.

II. Legal Standards

A. Dismissal for Lack of Subject Matter Jurisdiction

²Plaintiff named numerous individuals in his Complaint, which the court has omitted with ellipses for clarity.

³Plaintiff also attached an appendix (Appendix (i) or App. (i)) to his Complaint, in which plaintiff included a list of judicial circuits in Florida, as well as directories of individuals employed by various courts in Florida. See Compl. App. (i).

“Subject-matter jurisdiction may be challenged at any time by the parties or by the court sua sponte.” Folden v. United States, 379 F.3d 1344, 1354 (Fed. Cir. 2004) (citing Fanning, Phillips & Molnar v. West, 160 F.3d 717, 720 (Fed. Cir. 1998)); see also Metabolite Labs, Inc. v. Lab. Corp. of Am. Holdings, 370 F.3d 1354, 1369 (Fed. Cir. 2004) (“Subject matter jurisdiction is an inquiry that this court must raise sua sponte, even where, as here, neither party has raised this issue.”) (citing Textile Prods., Inc., v. Mead Corp., 134 F.3d 1481, 1485 (Fed. Cir. 1998)). “In deciding whether there is subject-matter jurisdiction, ‘the allegations stated in the complaint are taken as true and jurisdiction is decided on the face of the pleadings.’” Folden, 379 F.3d at 1354 (quoting Shearin v. United States, 992 F.2d 1195, 1195-96 (Fed. Cir. 1993)). Although complaints filed by pro se plaintiffs are generally held to “less stringent standards than formal pleadings drafted by lawyers,” Haines v. Kerner, 404 U.S. 519, 520 (1972), pro se plaintiffs nevertheless must meet jurisdictional requirements, Bernard v. United States, 59 Fed. Cl. 497, 499, aff’d, 98 F. App’x 860 (Fed. Cir. 2004) (unpublished). If the court determines that it does not have subject matter jurisdiction, it must dismiss the claim. RCFC 12(h)(3).

The Tucker Act establishes and limits the jurisdiction of the United States Court of Federal Claims (Court of Federal Claims). 28 U.S.C. § 1491 (2006). The Tucker Act provides that this court has jurisdiction over “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) (emphasis added). The Tucker Act provides the waiver of sovereign immunity necessary for a plaintiff to sue the United States for money damages. United States v. Mitchell, 463 U.S. 206, 212 (1983). Accordingly, the Tucker Act provides the court with jurisdiction over suits “against the United States.” 28 U.S.C. § 1491(a)(1). However, the Tucker Act does not confer any substantive rights upon a plaintiff. United States v. Testan, 424 U.S. 392, 398-401 (1976). A plaintiff must establish an independent substantive right to money damages from the United States, that is, a money-mandating source within a contract, regulation, statute or constitutional provision itself, in order for the case to proceed. Jan’s Helicopter Serv., Inc. v. Fed. Aviation Admin., 525 F.3d 1299, 1306 (Fed. Cir. 2008).

B. Transfer for Lack of Subject Matter Jurisdiction

Under 28 U.S.C. § 1631, a federal court may transfer a case to another federal court when (1) the transferring court lacks subject matter jurisdiction; (2) the case could have been brought in the transferee court at the time it was filed; and (3) such a transfer is in the interest of justice. See Rodriguez v. United States, 862 F.2d 1558, 1559-60 (Fed.

Cir. 1988) (citing Town of North Bonneville, Wash. v. U.S. District Court, 732 F.2d 747, 750 (9th Cir. 1984)).

III. Discussion

For the following reasons, plaintiff's Complaint is dismissed for lack of subject matter jurisdiction pursuant to RCFC 12(h)(3). Additionally, the court finds that transfer of plaintiff's case to another federal court is inappropriate.

A. The Court Does Not Have Jurisdiction Over Plaintiff's Claims

"The jurisdiction of the [Court of Federal Claims] is limited to suits against the United States." McGrath v. United States, 85 Fed. Cl. 769, 772 (2009) (citing United States v. Sherwood, 312 U.S. 584, 588 (1941)); see 28 U.S.C. § 1491. Therefore, the Court of Federal Claims does not have jurisdiction to hear claims against states, localities, state and local government entities, or state and local government officials and employees. Moore v. Pub. Defender's Office, 76 Fed. Cl. 617, 620 (2007) ("When a plaintiff's complaint names private parties, or local, county, or state agencies, rather than federal agencies, this court has no jurisdiction to hear those allegations.") (citing Stephenson v. United States, 58 Fed. Cl. 186, 190 (2003)). Rather than assert a claim against the United States, Mr. Griffin attempts to assert claims against state and local entities and employees on behalf of the United States. See Compl. 4-15. Because Mr. Griffin does not bring a claim against the United States,⁴ Mr. Griffin's Complaint must be dismissed pursuant to RCFC 12(h)(3) for lack of subject matter jurisdiction.

B. Transfer of the Case to Another Court Is Not Appropriate

Although not requested to do so by plaintiff, the court considers sua sponte whether "it is in the interest of justice" to transfer plaintiff's Complaint to another court under 28 U.S.C. § 1631.⁵ See Tex. Peanut Farmers v. United States, 409 F.3d 1370,

⁴Even if plaintiff alleged a claim against the United States, the court would still lack jurisdiction over his claims under the False Claims Act, 31 U.S.C. §§ 3729-3733 (2006), "because monetary recovery from the government for such claims is only authorized for qui tam plaintiffs, see 31 U.S.C. § 3730(d), and the Federal Circuit has held that such 'qui tam suits may only be heard in the district courts.'" Schweitzer v. United States, 82 Fed. Cl. 592, 595-96 (2008) (quoting LeBlanc v. United States, 50 F.3d 1025, 1031 (Fed. Cir. 1995)).

⁵Although plaintiff has not specifically requested a transfer, "the . . . court [may] order[] transfer without being asked to do so by either party." Tex. Peanut Farmers v. United States, 409
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1374-75 (Fed. Cir. 2005) (stating that the Court of Federal Claims should have considered whether transfer was appropriate once the court determined that it lacked jurisdiction). The court will transfer a case when a plaintiff articulates a clearly stated and non-frivolous complaint. See Phang v. United States, 87 Fed. Cl. 321, 330-31 (2009), (declining to transfer the case on the grounds that plaintiff's claims "were unlikely to be meritorious in another court of the United States"), aff'd, 2010 U.S. App. LEXIS 14276 (Fed. Cir. July 13, 2010) (unpublished).

The court determines that it is not "in the interest of justice" to transfer plaintiff's Complaint to another jurisdiction. In 2009, Mr. Griffin brought a similar complaint in the United States District Court for the Southern District of Florida, in which he alleged that "all defendants lacked a properly notarized oath of office."⁶ Griffin v. Levenson, No. 09-61749, 2009 U.S. Dist. LEXIS 126821, at *3 (S.D. Fla. Dec. 8, 2009), aff'd 2010 U.S. App. LEXIS 21318 (11th Cir. Oct. 14, 2010). Finding his contention "frivolous," the court dismissed plaintiff's complaint. Id. at 3, 6. Because the District Court has already considered and dismissed a complaint similar to plaintiff's Complaint in this case, it is not "in the interest of justice" to transfer plaintiff's Complaint to another jurisdiction.

IV. Conclusion

For the foregoing reasons, plaintiff's Complaint is DISMISSED. The Clerk of Court is directed to ENTER JUDGMENT in favor of defendant. No costs.

IT IS SO ORDERED.

EMILY C. HEWITT
Chief Judge

⁵...continue

F.3d 1370, 1375 (Fed. Cir. 2005). The court considers transfer in this case because plaintiff is proceeding pro se, see Skillo v. United States, 68 Fed. Cl. 734, 743 n.15 (2005) (granting transfer of plaintiffs' claims sua sponte), and because the transfer statute language "persuasively indicates that transfer, rather than dismissal, is the option of choice," Britell v. United States, 318 F.3d 70, 73 (1st Cir. 2003) (citing 28 U.S.C. § 1631 (2006)).

⁶The court notes that three of the listed defendants in plaintiff's Complaint, Michael J. Satz, Kenneth Jenne, and Al Lamberti, Compl. 1, were named as defendants in Griffin v. Levenson, No. 09-61749, 2009 U.S. Dist. LEXIS 126821, at *3 (S.D. Fla. Dec. 8, 2009), aff'd 2010 U.S. App. LEXIS 21318 (11th Cir. Oct. 14, 2010).