

**In the United States Court of Federal Claims**

No. 11-193 C

(Filed November 14, 2011 )

DOLI SYARIEF PULUNGAN, )  
 )  
 Plaintiff, )  
 v. )  
 )  
 THE UNITED STATES, )  
 Defendant. )

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**ORDER**

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This order addresses Defendant’s Motion to Dismiss plaintiff’s 28 U.S.C. § 1495 unjust conviction and imprisonment claim for lack of jurisdiction based on plaintiff’s failure to obtain a certificate of innocence from the court in which he was convicted as required by 28 U.S.C. § 2513.

As set forth in Defendant’s Motion to Dismiss, binding precedent holds that the lack of a certificate of innocence deprives this court of jurisdiction over a claim filed pursuant to 28 U.S.C. § 1495. *See Wood v. United States*, 91 Fed. Cl. 569 (2009); *but see Engage Learning, Inc. v. Salazar*, \_\_\_ F.3d \_\_\_, 2011 WL 4618001 at \*5 (Fed. Cir., October 5, 2011).

Plaintiff now seeks a certificate of innocence from the correct court, the U. S. District Court for the Western District of Wisconsin but that court has not ruled on the matter. For the reasons and authorities amply expressed in Defendant’s Reply in Support of its Motion to Dismiss, filed November 10, 2011, lacking jurisdiction over plaintiff’s claim, this court’s only viable action is to dismiss the Complaint. In the absence of jurisdiction, this court has no authority to grant a stay of proceedings to await whatever action the Wisconsin District Court will take on plaintiff’s application for a 28 U.S.C. § 2513 certificate.

Accordingly, it is **ORDERED** that plaintiff’s Complaint shall be **DISMISSED** for lack of jurisdiction without prejudice to the future initiation of a claim in this

court pursuant to 28 U.S.C. § 1495, were plaintiff to obtain a certificate of innocence in compliance with 28 U.S.C. § 2513.

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James F. Merow  
Senior Judge