

In the United States Court of Federal Claims

No. 07-201C
(Filed: August 6, 2007)
(Unpublished)

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DAVID C. MEEKS, *
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Plaintiff, *
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v. *
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THE UNITED STATES, *
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Defendant. *
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David C. Meeks, Seagoville, Texas, pro se.

Michael O'Connell, with whom were Peter D. Keisler, Assistant Attorney General, Jeanne E. Davidson, Director, Franklin E. White, Jr., Assistant Director, United States Department of Justice, Commercial Litigation Branch, Civil Division, Washington, D.C., for Defendant.

OPINION AND ORDER ON DEFENDANT'S MOTION TO DISMISS

WHEELER, Judge.

Plaintiff David Meeks is a federal inmate seeking a writ of habeas corpus regarding his indictment and conviction for a criminal offense. The Government indicted Mr. Meeks on May 9, 1996 in the U.S. District Court for the Eastern District of Texas, charging him under 21 U.S.C. § 846 with conspiracy to possess cocaine base with intent to deliver, and under 21 U.S.C. § 841(a)(1) with possession of cocaine base with intent to distribute. Mr. Meeks pleaded guilty on June 28, 1996 to the conspiracy charge, and on July 25, 1997, the Court sentenced him to 30 years in prison, to be followed by five years of supervised release.

On July 31, 1997, Mr. Meeks appealed his sentence to the U.S. Court of Appeals for the Fifth Circuit, claiming that the harsher penalties for crimes involving crack cocaine compared to powder cocaine were unconstitutional. On February 11, 1998, the Court of Appeals dismissed his appeal. Mr. Meeks then filed a petition for a writ of habeas corpus in the U.S. District Court for the Eastern District of Texas pursuant to 28 U.S.C. § 2255, which the District Court denied. The Fifth Circuit dismissed his appeal of that decision in July 1999 for failure to prosecute.

On March 26, 2007, Mr. Meeks filed his initial pleading in this Court styled as a “Cross Claim Petition” and an “Affidavit of Fact and Supporting Evidence by Appendix.” The Court accepted this pleading for filing since it contained allegations that might have been included in a complaint. Mr. Meeks alleges that Congress never properly enacted 18 U.S.C. § 3231¹ and 18 U.S.C. § 2², and therefore that his indictment and conviction in U.S. District Court are null and void. Mr. Meeks also claims that his rights under the Fifth and Sixth Amendments to the Constitution were violated because he allegedly received ineffective assistance of counsel, and that the District Court enhanced his sentence based upon facts that were not found by a jury or admitted by Mr. Meeks. He further alleges that the Department of Justice and the District Court committed fraud. Mr. Meeks requests correction of his inmate record, “mandatory release,” and compensation for each day that he has been falsely imprisoned since March 2, 2007. Also pending is Mr. Meeks’ motion to proceed in forma pauperis.

¹ 18 U.S.C. § 3231, “District Courts,” provides:

The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States.

Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof.

² 18 U.S.C. § 2, “Principals,” provides:

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

On May 24, 2007, Defendant filed a motion to dismiss Plaintiff's action for lack of subject matter jurisdiction pursuant to Rule 12(b)(1). Defendant asserts that the Court lacks jurisdiction to: (1) consider a petition for a writ of habeas corpus; (2) review the decisions of other federal courts; (3) issue declaratory judgments in the circumstances of this case; and (4) consider Mr. Meeks' claim for false imprisonment. Mr. Meeks responded to Defendant's motion with his own motion for default judgment, filed May 30, 2007, and a motion to strike Defendant's motion to dismiss, filed June 6, 2007. Defendant responded to both of these motions on June 14, 2007 and June 25, 2007 respectively. Mr. Meeks filed a reply to these responses on July 10, 2007. After full consideration of the parties' positions, and for the reasons explained below, the Court grants Defendant's motion to dismiss.

Standard for Decision

In ruling on motions to dismiss for lack of subject matter jurisdiction under Rule 12(b)(1), the Court accepts as true the undisputed allegations in the complaint, and draws all inferences in favor of the plaintiff. Scheuer v. Rhodes, 416 U.S. 232, 236 (1974). The plaintiff bears the burden of establishing jurisdiction by a preponderance of the evidence. Reynolds v. Army & Air Force Exch. Serv., 846 F.2d 746, 748 (Fed. Cir. 1988). The Court must treat a motion to dismiss for lack of subject matter jurisdiction as a dispositive question, to be addressed before any others. Patton v. United States, 64 Fed. Cl. 768, 773 (2005) (citing Moran v. Kingdom of Saudi Arabia, 27 F.3d 169, 172 (5th Cir. 1994)).

Jurisdiction

Pursuant to the Tucker Act, the Court of Federal Claims has 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). The Tucker Act, however, "does not create any substantive right[s] enforceable against the United States for money damages[;] . . . the Act merely confers jurisdiction upon it whenever the substantive right exists." United States v. Testan, 424 U.S. 392, 398 (1976) (citation omitted). A plaintiff coming before this Court, therefore, must also identify a separate provision of law conferring a substantive right for money damages against the United States. See, e.g., Todd v. United States, 386 F.3d 1091, 1094 (Fed. Cir. 2004).

Pro se litigants like Mr. Meeks are afforded greater leeway in presenting their pleadings to the Court. See Forshey v. Principi, 284 F.3d 1335, 1357-58 n.21 (Fed.

Cir.2002) (discussing the less stringent standards that courts of appeals apply to *pro se* parties); see also Haines v. Kerner, 404 U.S. 519, 520-21 (1972) (explaining that *pro se* plaintiffs' pleadings are held to "less stringent standards than formal pleadings drafted by lawyers"). This broad latitude extended to *pro se* litigants does not, however, exempt them from meeting this Court's jurisdictional requirements. Henke v. United States, 60 F.3d 795, 799 (Fed. Cir. 1995) (noting that the fact a litigant "acted *pro se* in the drafting of his complaint may explain its ambiguities, but it does not excuse its failures").

1. Writ of Habeas Corpus Claim

At the heart of Plaintiff's claims is his petition for a writ of habeas corpus ordering his immediate release from prison because, as he asserts, the statutes under which he was convicted are unconstitutional. Specifically, Mr. Meeks argues that the jurisdictional grant over federal crimes given to federal district courts pursuant to 18 U.S.C. § 3231 and the federal conspiracy statute, 18 U.S.C. § 2, are unconstitutional because Congress did not properly pass either law. The district court, therefore, lacked the authority to try and sentence him, and the statute under which he was convicted is null and void, as is his conviction.

As Plaintiff may be aware, the Court of Federal Claims lacks jurisdiction to grant habeas corpus relief under current statutes. See 28 U.S.C. § 2241 (specifically granting such authority to district courts, the United States Courts of Appeals and the Supreme Court) and 28 U.S.C. § 2255 (providing remedies on motions attacking sentences). Mr. Meeks asserts instead that these statutes also are unconstitutional because of the manner in which they were passed. He turns to a previous version of the habeas corpus statute, 28 U.S.C. § 451 *et seq.* (1940), to assert this Court's jurisdiction. Mr. Meeks apparently reads this 1940 version as having a broader jurisdictional grant that includes the Court of Federal Claims.

Plaintiff's argument, while novel, is inaccurate in both its premise and conclusion. The current habeas corpus statutes are valid and specifically deny this Court jurisdiction. Plaintiff's reading of the legislative history simply is wrong. Both houses of Congress properly passed Pub. L. Nos. 80-772 and 80-773, and the President signed both into law on June 25, 1948. See, ch. 644, § 2241, 62 Stat. 964-65 (1948) (current version at 28 U.S.C. § 2241 (2000)) and ch. 646, § 2255, 62 Stat. 967-68 (1948) (current version at 28 U.S.C. § 2255 (2000)). Moreover, the Supreme Court repeatedly has affirmed the validity of these statutes. See, e.g., Rasul v. Bush, 542 U.S. 466 (2004) (accepting the validity of the statute as a prerequisite to interpreting its application to aliens held in federal custody); Zadvydas v. Davis, 533 U.S. 678, 687 (2001) (describing section 2241 as "the primary federal habeas corpus statute"); Johnson v. United States, 544 U.S. 295 (2005) (assuming constitutionality of section 2255 in explaining how soon a prisoner must challenge a federal sentence pursuant to the statute).

The jurisdictional grant in 28 U.S.C. § 2241 is very specific and does not include the Court of Federal Claims. It provides that “[w]rits of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). The Court of Federal Claims is not a district court and has never had jurisdiction to hear petitions for habeas corpus. Congress established the Court of Federal Claims “under article I of the Constitution of the United States.” 28 U.S.C. § 171(a). District courts, in contrast, were established under article III of the Constitution. See Int’l Longshoremen’s & Warehousemen’s Union v. Juneau Spruce Corp., 342 U.S. 237, 238 (1952) (“The words ‘district court of the United States’ commonly describe constitutional courts created under Article III of the Constitution”) Therefore, the Court of Federal Claims does not have the same jurisdictional grant as the district courts, and is not one of the courts granted the authority to issue writs of habeas corpus. See Ledford v. United States, 297 F.3d 1378, 1380-81 (2002) (“[T]he habeas statute does not list the Court of Federal Claims among those courts empowered to grant a writ of habeas corpus”); Stephenson v. United States, 58 Fed. Cl. 186, 191-192 (2003) (explaining that “the Court of Federal Claims is not named among those courts having authority to grant writs of habeas corpus”).

Even if Plaintiff’s assertions were valid, this Court lacked jurisdiction to hear habeas corpus petitions under the 1940 statute as well. See 28 U.S.C. §§ 451-466 (1940). Section 451 provided that “[t]he Supreme Court and the district courts shall have power to issue writs of habeas corpus,” and section 452 defined which judges had authority to grant habeas corpus petitions using the exact language used in subsequent versions. Compare 28 U.S.C. § 451 (1940) with 28 U.S.C. § 2241(a)(1948). Regardless of which version Mr. Meeks accepts, this Court lacks jurisdiction to hear his request for a writ of habeas corpus.

2. Review of Other Courts’ Decisions

The Court of Federal Claims lacks jurisdiction to review the decisions of district courts in cases where the district courts possess jurisdiction. Maracalin v. United States, 52 Fed. Cl. 736, 741 (2002) (citing Joshua v. United States, 17 F.3d 378, 380 (Fed. Cir. 1994)). Similarly, this Court does not have jurisdiction to consider criminal cases. Id. (citing Sanders v. United States, 252 F.3d 1329, 1333-34 (Fed. Cir. 2001)). To the extent that Mr. Meeks seeks reversal or review of his criminal conviction, he must do so in the appropriate district court or court of appeals. Id. (citing Sanders, 252 F.3d at 1336).

Mr. Meeks appears to argue that he was innocent of the charge to which he pleaded guilty, and that he should be released from prison. See Meeks Aff. at 62 (stating that he is “actually innocent” and requesting relief for “unlawful confinement”). Mr. Meeks further states that the district court knew the statutes at issue were unconstitutional and that the court violated his Fifth and Sixth Amendment rights. Id. However, the Court of Federal Claims does not have jurisdiction to consider criminal cases or to review district court decisions, and

therefore this Court cannot consider Mr. Meeks' arguments. Maracalin, 52 Fed. Cl. at 741 (“To the extent that plaintiff requests reversal or review of his criminal conviction, he should seek relief in either the District Court . . . or the United States Court of Appeals for the Fifth Circuit.”).

3. Constitutional Claims

Other than Fifth Amendment taking claims, this Court lacks jurisdiction to consider constitutional claims. See Elkins v. United States, 229 Ct. Cl. 607, 608 (1981) (Order). The Federal Circuit and the Court of Federal Claims consistently have held that the Court does not possess jurisdiction to consider claims based upon alleged violations of the First, Fourth, Sixth, Eighth, Ninth, Tenth, and Thirteenth Amendments. See, e.g., United States v. Connolly, 716 F.2d 882, 887 (Fed. Cir. 1983) (finding that the First Amendment, standing alone, does not mandate the payment of money and therefore the Court of Federal Claims cannot consider claims based on the First Amendment); Dupre v. United States, 229 Ct. Cl. 706 (1981) (Order) (“the Fourth and Sixth Amendments do not in themselves obligate the United States to pay money damages”); Wright v. United States, 20 Cl. Ct. 416, 421 (1990) (finding the terms of the Eighth Amendment do not create a cause of action for money damages); Royce v. United States, 1 Cl. Ct. 225, 226 (1982) (holding that the Claims Court lacked jurisdiction to consider a Ninth Amendment claim because the amendment does not obligate the United States to pay money damages); Carter v. United States, 228 Ct. Cl. 898, 900 (1981) (Order) (Court lacks jurisdiction to entertain non-contractual monetary claims arising under the Thirteenth Amendment). In addition, it is well settled that the Fifth Amendment Due Process Clause is not a basis for jurisdiction in this Court because it does not mandate the payment of money by the United States. See LeBlanc v. United States, 50 F.3d 1025, 1028 (Fed. Cir. 1995).

Mr. Meeks claims that his rights under the Fifth Amendment Due Process Clause and the Sixth Amendment were violated because he allegedly received ineffective assistance of counsel and the court enhanced his sentence based upon facts that were not found by the jury or admitted by Mr. Meeks. See Meeks Aff. at 7. However, the Fifth Amendment Due Process Clause and the Sixth Amendment do not mandate the payment of money and therefore the Court of Federal Claims lacks jurisdiction to consider these claims.

4. Declaratory Judgments

In at least three of the claims Mr. Meeks presents, he seeks declaratory relief from the Court. See Meeks Aff. at 6-8. In the first claim, Mr. Meeks requests the Court to declare that 28 U.S.C. §§ 2241 and 2255 “were never enacted into positive law, are unconstitutional on their face, and void *ab initio*.” Meeks Aff. at 6. In a second claim, Mr. Meeks makes the same argument as to 18 U.S.C. §§ 2 and 3231. Id. In a third claim, Mr. Meeks requests the Court to declare that he received ineffective assistance of counsel. Meeks Aff. at 7.

This Court does not possess jurisdiction to declare statutes void or unconstitutional. Miller v. United States, 67 Fed. Cl. 195, 199 (2005) (citing United States v. King, 395 U.S. 1, 5 (1969) (“In the absence of an express grant of jurisdiction from Congress, we decline to assume that the Court of Federal Claims has been given the authority to issue declaratory judgments.”). Except in limited circumstances not applicable here, the Court cannot issue declaratory relief.

5. Tort Claims

Mr. Meeks alleges that the Government committed fraud in the district court, and he contends in a “separation of powers” argument that the district court participated in the fraud because the court “knew that the proceedings were a fraud.” Meeks Aff. at 61. The Court of Federal Claims, however, lacks jurisdiction to consider a plaintiff’s claim of fraud. Brown v. United States, 105 F.3d 621, 623 (Fed. Cir. 1997). As the Federal Circuit explained in Brown, a plaintiff’s claims of fraud are tort claims, and this Court does not possess jurisdiction to hear tort claims. Brown, 105 F.3d at 623; accord, Englert v. United States, 38 Fed. Cl. 366, 373 (1997) (“[T]his Court has no jurisdiction to entertain allegations of fraudulent actions of government employees This Court has no jurisdiction over allegations by plaintiff which may be characterized as based upon tort, including any claims by plaintiff of fraud or breach of duty or negligence.”) (citations omitted). Accordingly, the Court cannot consider Mr. Meeks’ tort claims.

6. False Imprisonment Claim

Under 28 U.S.C. § 1495, the Court of Federal Claims possesses jurisdiction “to render judgment upon any claim for damages by any person unjustly convicted of an offense against the United States and imprisoned.” However, this grant of jurisdiction is strictly construed and must be read in conjunction with 28 U.S.C. § 2513. Salman v. United States, 69 Fed. Cl. 36, 39 (2005). Section 2513 provides in pertinent part:

(a) Any person suing under Section 1495 of this title must allege and prove that:

(1) His conviction has been reversed or set aside on the ground that he is not guilty of the offense of which he was convicted, or on new trial or rehearing he was found not guilty of such offense, as appears from the record or certificate of the court setting aside or reversing such conviction, or that he has been pardoned upon the stated ground of innocence and unjust conviction and

(2) He did not commit any of the acts charged or his acts, deeds, or omissions in connection with such charge constituted no offense against the United States, or any State, Territory or the District of

Columbia, and he did not by misconduct or neglect cause or bring about his own prosecution.

(b) Proof of the requisite facts shall be by a certificate of the court or pardon wherein such facts are alleged to appear, and other evidence thereof shall not be received.

28 U.S.C. § 2513(a), (b). Thus, for the Court of Federal Claims to possess jurisdiction under section 1495, a plaintiff must allege that his conviction has been reversed or set aside by one of the means listed in section 2513. Salman, 69 Fed. Cl. at 39. In the present case, Mr. Meeks has claimed damages for “false imprisonment,” but he has not shown that his conviction has been set aside, or that he has been pardoned. The Court therefore cannot consider his claim for money damages.

Conclusion

Based upon the foregoing, Defendant's Rule 12(b)(1) motion to dismiss for lack of subject matter jurisdiction is GRANTED. For good cause shown, Plaintiff's motion to proceed in forma pauperis is GRANTED. Plaintiff's motions for default judgment and to strike Defendant's motion to dismiss are DENIED. Plaintiff's complaint shall be DISMISSED without prejudice.

IT IS SO ORDERED.

THOMAS C. WHEELER
Judge