

In the United States Court of Federal Claims

No. 11-125C
(Filed: June 16, 2011)
(Not for Publication)

GEORGE WYATT, et al., *
 *
 Plaintiffs, *
 *
 v. *
 *
 THE UNITED STATES, *
 *
 Defendant. *
 *

ORDER OF DISMISSAL

WILLIAMS, Judge.

This matter comes before the Court on Defendant’s motion to dismiss pro se Plaintiffs’ complaint for lack of subject-matter jurisdiction pursuant to Rule 12(b)(1) of the Rules of the United States Court of Federal Claims (“RCFC”). Plaintiffs appear to allege tort, antitrust, and civil rights claims. Because the Court lacks subject-matter jurisdiction, the Court dismisses the complaint.

Background¹

On February 28, 2011, Plaintiffs filed the instant complaint, which appears to allege tort, antitrust, and civil rights claims.² The handwritten complaint, much of which is illegible, appears to identify several defendants, including C. Johnson and “King John.” Compl. at 1. The names of the other defendants are difficult to discern.

¹ This background is derived from the complaint and should not be construed as findings of fact. Although the complaint indicates that it was mailed on January 18, 2011, this Court received it on February 28, 2011.

² The caption of the complaint appears to list approximately 23 plaintiffs.

Plaintiffs appear to allege civil rights claims and claims arising under the Clayton Act, “Sherman Act for Price discrimination” and “the new Consumer Act and Commissary Fraudulent [Act],” referencing “Due Care Health And Prices discrimination[.]” Id.³

Specifically, Plaintiffs allege in relevant part:

Plaintiffs who are not on restriction are permitted to purchase food[,] stationary[,] stamps and personal [items] and deodorant > Comfort items From the Jail commissary items may be purchased as needed when you have sufficient money in your Plaintiffs['] account, Prices for commissary items are comparable to prices for similar items on the outside[.] Any Questions concerning purchases from the Commissary must be brought to the attention of the vendor at the time of sale[.] No Plaintiffs is permitted to operation a store[.] H. [illegible] Steves is hoarding -- storing of items for the purpose of resale for profit or gain[.] Stamp 61 ¢ Soup ¢ 40. Candy 95 [¢].

Id. at 2.

Plaintiffs request relief in the amount of “\$First one Hundredth Thousandth millionth Billionth Trillionth Septillionth sextillionth Quitallionth Quatillionth octillionth Nontilliant Decillionth Zillionth Dollars With the interest rate of 9%.” Id. at 1. They also request attorney’s fees and “litigation expenses.” Id.

On March 21, 2011, Defendant moved to dismiss Plaintiffs’ complaint for lack of subject-matter jurisdiction. Plaintiffs never responded to the motion. On April 14, 2011, Defendant notified the Court that Plaintiffs had not been served with the motion to dismiss because the address Mr. Wyatt had provided was no longer valid and the Government has no other address for Mr. Wyatt.⁴

Discussion

Plaintiffs bear the burden of establishing subject-matter jurisdiction before the Court proceeds to the merits of the action. Reynolds v. Army & Air Force Exch. Serv., 846 F.2d 746, 748 (Fed. Cir. 1988); Naskar v. United States, 82 Fed. Cl. 319, 320 (2008); Fullard v. United States, 78 Fed. Cl. 294, 299 (2007). When deciding a motion to dismiss based on lack of subject-matter jurisdiction, the Court must accept as true all undisputed allegations of fact made by the plaintiff and draw all reasonable inferences from those facts in the plaintiff’s favor. Henke v. United States, 60 F.3d 795, 797 (Fed. Cir. 1995); Naskar, 82 Fed. Cl. at 320. “If the

³ Plaintiffs also mention various rules relating to, inter alia, attorney’s fees and injunctive relief, but it is unclear to what rules they refer.

⁴ Mr. Wyatt appears to have resided in the Dallas County Jail in Dallas, Texas, but on March 18, 2011, the Court received a notice of returned mail relating to an order of March 2, 2011, which stated that the case was not suitable for early neutral evaluation. On April 14, 2011, the Government received its notice of appearance and motion to dismiss in envelopes stamped, “RETURN TO SENDER NOT IN DALLAS COUNTY JAIL.” Def.’s Notice of Failure of Service at 1.

court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” RCFC 12(h)(3).

“[C]omplaints drafted by pro se litigants are held to ‘less stringent standards than formal pleadings drafted by lawyers.’” Naskar, 82 Fed. Cl. at 320 (citation omitted); see also Tindle v. United States, 56 Fed. Cl. 337, 341 (2003). Nevertheless, a plaintiff’s pro se status does not excuse him or her from meeting this Court’s jurisdictional requirements. Tindle, 56 Fed. Cl. at 341. Pro se litigants still bear the burden of establishing the Court’s subject-matter jurisdiction. Id. Furthermore, “the court has no duty to create a claim where a pro se plaintiff’s complaint is so vague or confusing that one cannot be determined.” Fullard, 78 Fed. Cl. at 299; see also Akinro v. United States, 91 Fed. Cl. 650, 653 (2010).

The United States Court of Federal Claims is a “court of limited jurisdiction.” Fullard, 78 Fed. Cl. at 299. The Tucker Act states that this Court:

shall have 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 confers jurisdiction upon the Court over cases in which a plaintiff identifies a separate Constitutional provision, statute, or regulation, which if violated, provides for a claim for money damages against the United States. See, e.g., Jan’s Helicopter Serv., Inc. v. Fed. Aviation Admin., 525 F.3d 1299, 1306 (Fed. Cir. 2008); Ferreiro v. United States, 501 F.3d 1349, 1351 (Fed. Cir. 2007). The Tucker Act provides a waiver of sovereign immunity enabling a plaintiff to sue the United States for money damages. Ferreiro, 501 F.3d at 1351. However, the Tucker Act, standing alone, does not create a substantive right enforceable against the United States for monetary relief. Id. Rather, a plaintiff must establish an independent right to money damages based upon a money-mandating source within a contract, regulation, statute, or Constitutional provision. Id.; see also Jan’s Helicopter, 525 F.3d at 1306.

Here, the Court lacks subject-matter jurisdiction because the allegations arise from conduct by nonfederal agents and entities. To set forth a claim cognizable by this Court, the complaint must allege that the federal government, or its agent, has violated a federal statute, regulation, or the Constitution. This is because “[t]he only proper defendant for any matter before this court is the United States, not its officers, nor any other individual.” Stephenson v. United States, 58 Fed. Cl. 186, 190 (2003). The United States is not liable for the actions of nonfederal parties who are not agents of the United States. Vlahakis v. United States, 215 Ct. Cl. 1018, 1018 (1978); Fullard, 78 Fed. Cl. at 300-01. As such, to the extent the complaint alleges wrongdoing on the part of nonfederal entities and individuals, such as the Dallas County Jail or its Commissary, the Court must dismiss the complaint because Plaintiffs’ allegations arise from alleged wrongdoing committed by nonfederal entities and individuals, not the United States. Plaintiffs have not alleged any facts that would attribute the conduct of these defendants to the United States or bring their conduct within this Court’s jurisdiction. Accordingly, this Court lacks jurisdiction over the action. Stephenson, 58 Fed. Cl. at 190.

Furthermore, Plaintiffs appear to allege tort, antitrust, and/or civil rights claims over which the Court does not possess jurisdiction. The Tucker Act expressly limits the jurisdiction of this Court to “cases not sounding in tort.” 28 U.S.C. § 1491(a)(1). To the extent Plaintiffs allege torts on the part of the Dallas County Jail, its Commissary, Jail or Commissary employees, other prisoners, or any other defendant, the Court lacks jurisdiction. See, e.g., 28 U.S.C. § 1491(a)(1); Schweitzer v. United States, 82 Fed. Cl. 592, 595 (2008); Nalette v. United States, 72 Fed. Cl. 198, 202 (2006) (holding that the Court lacked jurisdiction over tort claims).

Nor does the Court have jurisdiction to adjudicate Plaintiffs’ antitrust and civil rights claims. See, e.g., 28 U.S.C. § 1491(a)(1); Hernandez v. United States, 93 Fed. Cl. 193, 198 (2010) (“The [Court of Federal Claims] does not have jurisdiction over claims arising under the Civil Rights Act, as jurisdiction over such claims resides exclusively in the federal district courts.”); Akinro, 91 Fed. Cl. at 655 (holding that the Court does not possess jurisdiction over a claim brought under the Sherman Antitrust Act); Searles v. United States, 88 Fed. Cl. 801, 804-05 (2009) (explaining that the Court lacked jurisdiction over the plaintiff’s civil rights claims); Schweitzer, 82 Fed. Cl. at 595 (same); Sanders v. United States, 34 Fed. Cl. 75, 80 (1995) (finding that the Court lacked jurisdiction “to entertain general civil rights claims that are not based upon an appropriate money-mandating provision”), aff’d, 104 F.3d 376 (Fed. Cir. 1996).

Conclusion

Defendant’s motion to dismiss for lack of jurisdiction is **GRANTED**.

**MARY ELLEN COSTER WILLIAMS
JUDGE**