

In the United States Court of Federal Claims

No. 11-185C

(Filed September 30, 2011)

NOT FOR PUBLICATION

SRIKANTH TANGIRALA,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

ORDER

Plaintiff filed, on March 25, 2011, a one paragraph complaint with five pages of exhibits. The complaint stated that plaintiff was an employee of the United States Postal Service (“USPS”) who was injured on the job, and a worker’s compensation claimant before the Department of Labor. Compl. at 1. The single paragraph did not contain any allegations of violations of a money-mandating statute by defendant. *See id.* Additionally, the exhibits were a random assortment of items ranging from a letter to the Attorney General of the United States regarding plaintiff’s worker’s compensation, Compl. at 3,¹ to a Traffic Delinquent Warning Notice issued to plaintiff for failing to observe a stop. Compl. at 4. One of these documents is plaintiff’s 2010 annual statement for his Thrift Savings Plan account, which notes he was separated from government employment on March 18, 2005. Compl. at 6.

Despite the paucity of allegations in the complaint, the Court took the extraordinary step of allowing Mr. Tangirala to orally explain the details of the case he was attempting to bring, in a status conference held by telephone on May 13, 2011. As explained in the Court’s Order of May 16, 2011, Mr. Tangirala expressed during this conference his belief that he has continued as a USPS employee and also was employed by the Department of Labor (“DOL”) during the period of rehabilitation for a hernia he sustained while delivering mail. Order, May 16, 2011. Apparently, Mr. Tangirala was attempting to bring a claim for either worker’s compensation or back pay. *Id.* When given the opportunity to file an amended complaint to reflect these claims,

¹ Plaintiff did not paginate the complaint. Therefore, the Court has simply started the exhibits as page 2 and continued sequentially for ease of reference.

Mr. Tangirala declined on the grounds that he was “totally disabled” and that he had been told he could not perform any work, including typing a complaint.² *Id.*

To give plaintiff every opportunity possible to present a case, the Court requested that defendant research Mr. Tangirala’s employment status with both the USPS and the DOL. *Id.* On June 17, 2011, defendant submitted a status report with the results of that investigation. According to defendant, Mr. Tangirala was an employee of the USPS from June 30, 2003 until his resignation, which was effective March 18, 2005. Status Report at 1 & Ex. 1 (June 17, 2011). Concerning the DOL, defendant reported that there was “no evidence . . . that Mr. Tangirala was employed by DOL.” *Id.* at 1 & Ex. 2. Nor has Mr. Tangirala presented any evidence of his employment with either agency beyond March 18, 2005 except for his curious oral averment that his physical therapy, visits to our court and other activities were tasks of his employment.

Defendant moved on July 25, 2011 to dismiss Mr. Tangirala’s case pursuant to Rule 12(b)(1) and 12(b)(6) of the Rules of the Court of Federal Claims.³ As defendant correctly discusses, *see* Mot. to Dismiss at 3-4, while a *pro se* litigant is not held to the same standards as an attorney, he must still demonstrate by a preponderance of the evidence that the Court has jurisdiction over his case. *See, e.g., Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Duncan v. United States*, 98 Fed. Cl. 318, 324 (2011); *Riles v. United States*, 93 Fed. Cl. 163, 165 (2010). Additionally, in order for the Court to have jurisdiction, Mr. Tangirala’s claims would have to have been brought within the six-year statute of limitations period. 28 U.S.C. § 2501.

As noted above, Mr. Tangirala has presented no evidence to counter the defendant’s status report showing he was not employed by either the USPS or the DOL after March 18, 2005. Moreover, a document attached to his complaint indicates that he was separated from federal service on that date. *See* Compl. at 6. If Mr. Tangirala were indeed bringing a case for back pay unlawfully withheld, he would have to show that he was actually appointed to the position for which he seeks back pay. *United States v. Testan*, 424 U.S. 392, 402, 406 (1976). Having not shown any appointment after March 18, 2005, any such back pay claims would not be within our jurisdiction.

If Mr. Tangirala were instead attempting to bring claims based upon actions that occurred on or before March 18, 2005, the Court would, of course, not have any jurisdiction. As noted above, claims in our Court generally must be brought within six years of accrual.⁴ Mister Tangirala did not file his complaint until March 25, 2011. Looking back six years, plaintiff

² The Court notes that Mr. Tangirala was able to subsequently type e-mails, *see* Order, July 8, 2011, and a document he styled as a motion for summary judgment.

³ Mister Tangirala has not filed a response to the government’s motion, and the Court has determined that oral argument is unnecessary.

⁴ In some circumstances, not presented here, statutory tolling may effectively extend the six year limitations period. *See, e.g., Bright v. United States*, 603 F.3d 1273 (Fed. Cir. 2010).

would be limited to claims that accrued on or after March 25, 2005. But Mr. Tangirala's employment with and resignation from the USPS predate that period, and he has not alleged any breach or illegal exaction occurring after that date upon which he can base a claim.

Lastly, Mr. Tangirala may have intended to bring a claim founded upon an improper termination of his benefits under the Federal Employees' Compensation Act ("FECA"), 5 U.S.C. §§ 8101-8149. Unfortunately for plaintiff, if the Secretary of Labor or her designee (here, the Office of Workers' Compensation Programs) allows or denies payment under FECA, that decision is "not subject to review . . . by a court by mandamus or otherwise." 5 U.S.C. § 8128(b)(2); *see also Cross v. Office of Pers. Mgmt.*, 407 F. App'x 439, 440 (Fed. Cir. 2011); *Jackson v. United States*, 242 F. App'x 698, 700 (Fed. Cir. 2007). Therefore, if this were the basis for Mr. Tangirala's claims, our court would not have subject matter jurisdiction over the case.

Mister Tangirala has made virtually no attempt to explain how his case falls within our Court's jurisdiction, nor has he submitted an opposition to the government's motion to dismiss. Based on the limited information he has presented, the three possibilities that may be inferred from Mr. Tangirala's sketchy filings -- that is, that he is challenging the denial of his workers' compensation benefits, alleging some cognizable legal injury suffered while employed by the USPS before his March 18, 2005 resignation, or was not paid by the USPS and/or the DOL for his activities after March 18, 2005 -- are not within the Court's jurisdiction, as explained above. Therefore, defendant's Motion to Dismiss for lack of jurisdiction is **GRANTED** and the Court hereby **DISMISSES** this action without prejudice.⁵ The Clerk shall close the case. No costs shall be awarded.

IT IS SO ORDERED.

VICTOR J. WOLSKI
Judge

⁵ All other pending motions are **DENIED AS MOOT**.