

In The United States Court of Federal Claims

No. 10-595C

This Opinion Will Not Be Published in the U.S. Court of Federal Claims Reporter Because It Does Not Add Significantly to the Body of Law.

(Filed: October 7, 2010)

GARY PAGANO,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

OPINION and ORDER

On September 3, 2010, Gary Pagano (plaintiff) filed a complaint in this court seeking to initiate a class action for himself and 42 million Social Security beneficiaries, asserting that the class has been deprived of benefits under the Food Stamp Act of 1977, Pub. L. 95-113, 91 Stat. 962 (1977), as amended (as of 2008, this program became known as the Supplemental Nutritional Assistance Program). Plaintiff seeks \$2 trillion in damages.

This court is solemnly obliged, on its own accord, to address obvious questions concerning its subject matter jurisdiction. *See Mitchell v. Maurer*, 293 U.S. 237, 244 (1934). This court recognizes that plaintiff is acting *pro se* before this court, and thus the court will hold the form of plaintiff's submissions to a less stringent standard than those drafted by an attorney. *See Reed v. United States*, 23 Cl. Ct. 517, 521 (1991) (citing *Estelle v. Gamble*, 429 U.S. 97 (1976)). Having reviewed plaintiff's complaint, this court is certain that it lacks jurisdiction to consider the claims that plaintiff raises.

With very limited exceptions, the jurisdictional statutes governing this court grant it authority only to issue judgments for money against the United States and then, only when they are grounded in a contract, a money-mandating statute, or the "takings clause" of the Fifth Amendment. *See United States v. Testan*, 424 U.S. 392 (1976); 28 U.S.C. §1491. This court lacks jurisdiction over claims seeking food stamps or monetary recoveries in lieu thereof, which claims, where allowed, are generally pursued through the state agency managing the relevant food stamp program. *See id.* at § 1491(a)(1) (limiting the jurisdiction of the United States Court

of Federal Claims to claims “against the United States”); *Brown v. United States*, 105 F.3d 621, 624 (Fed. Cir. 1997) (concluding that the court’s jurisdiction does not extend to suits against individual state officials); *Shewfelt v. United States*, 104 F.3d 1333, 1337-38 (Fed. Cir. 1997) (holding that the actions of state officials were not attributable to the United States); *Fullard v. United States*, 77 Fed. Cl. 226, 230 (2007) (same). Nor does this court have jurisdiction over claims for relief seeking declarations that regulations issued either by these state agencies or by the U.S. Department of Agriculture are invalid. *See Cienega Gardens v. United States*, 33 Fed. Cl. 196, 224 (1995), *judgment vacated, on other grounds*, 194 F.3d 1231 (Fed. Cir. 1998), *cert. denied*, 528 U.S. 820 (1999) (“This court has no authority to order [an agency] to adopt or change any particular regulation, nor may it declare any particular regulation invalid.”); *see also*, *e.g.*, *Garrett v. Lyng*, 877 F.2d 472 (6th Cir. 1989); *Villegas v. Concannon*, 742 F. Supp. 1083 (D. Ore. 1990); *Hess v. Hughes*, 500 F. Supp. 1054, 1061 (D. Md. 1980)

Accordingly, plaintiff’s allegations regarding the food stamp program are insufficient to give this court jurisdiction over the claims in his complaint. The Clerk shall **DISMISS** plaintiff’s complaint for lack of jurisdiction.

IT IS SO ORDERED.

Francis M. Allegra
Judge