

# United States Court of Federal Claims

No. 11-133 C  
September 27, 2011  
UNPUBLISHED

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**James A. Arunga,**

*Plaintiff,*

v.

**United States of America,**

*Defendant.*

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*James A. Arunga, pro se.*

*Steven M. Mager*, Civil Division, Commercial Litigation Branch, United States Department of Justice, Washington, DC, for defendant.

## OPINION *and* ORDER

**Block, Judge.**

*Pro se* plaintiff, James A. Arunga,<sup>1</sup> brings this suit seeking a refund of money that the Social Security Administration (“SSA”) allegedly withheld from his supplemental security income.<sup>2</sup> Compl. at 1. Defendant has moved to dismiss the suit for lack of jurisdiction pursuant to Rule 12(b)(1) of the Rules of the United States Court of Federal Claims. Def.’s Mot. to Dismiss at 1. Because plaintiff’s claim arises under the Social Security Act it falls within the exclusive jurisdiction of the federal district courts, and therefore this court must grant defendant’s motion to dismiss.

Plaintiff alleges that the SSA unlawfully withheld \$25 from his supplemental security income. Compl. at 1–2. In support of this allegation, plaintiff refers to a letter from the SSA stating that in November 2009 the agency reduced plaintiff’s supplemental security income

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<sup>1</sup> Along with his complaint, plaintiff submitted an application to proceed *in forma pauperis*. Plaintiff’s request to proceed *in forma pauperis* is GRANTED.

<sup>2</sup> “Supplemental security income” is a benefit provided under the Social Security Act to individuals “who have attained age 65 or are blind or disabled,” 42 U.S.C. § 1381, and whose income and resources fall below certain levels, *id.* § 1382. See generally *Supplemental Security Income*, Social Security Online, <http://www.ssa.gov/ssi>.

payment to \$353.00 after “hav[ing] withheld [\$]25.00 to recover an overpayment.” *Id.* Ex. A at 1. Plaintiff alleges that the withheld amount is “unowed” and seeks a refund of the allegedly unlawful withholding. *Id.* at 1. In what he styles as an “alternative,” plaintiff requests a jury trial on the merits of his claim. *Id.* at 2.

In ruling on defendant’s motion to dismiss, the court accepts as true plaintiff’s factual allegations and construes them in plaintiff’s favor. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). Additionally, because he is proceeding *pro se*, plaintiff’s complaint is “held to less stringent standards than formal pleadings drafted by lawyers.” *Id.* However, even with these lenient standards the court cannot adjudicate plaintiff’s case unless his claim falls within the court’s jurisdiction. *See Henke v. United States*, 60 F.3d 795, 799 (Fed. Cir. 1995) (noting that acting “*pro se* in the drafting of [a] complaint may explain [the complaint’s] ambiguities, but it does not excuse its failures”).

This court’s general grant of jurisdictional power is based on the Tucker Act. This statute limits the jurisdiction of the Court of Federal Claims to “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 damages in cases not sounding in tort.” 28 U.S.C. § 1491(a)(1). Significantly, the Tucker Act does not itself create any substantive rights. *See United States v. Testan*, 424 U.S. 392, 400 (1976); *Fisher v. United States*, 402 F.3d 1167, 1172 (Fed. Cir. 2005). Rather, to come within the Tucker Act’s jurisdictional reach a plaintiff must assert a substantive right created by an independent source, such as a Constitutional provision or Act of Congress. *See Testan*, 424 U.S. at 399; *Fisher*, 402 F.3d at 1172. And the source of the asserted right must be “money-mandating,” *i.e.*, it must expressly create a right enforceable against the federal government for money damages. *Fisher*, 402 F.3d at 1172.

Nonetheless, the Tucker Act’s jurisdictional grant may be “displaced or modified by explicit federal statutory law.” *S. Cal. Edison v. United States*, 69 Fed. Cl. 66, 74 (2005). A claim “will not fall within the purview of the Tucker Act if Congress has placed jurisdiction over it elsewhere.” *Massie v. United States*, 166 F.3d 1184, 1188 (Fed. Cir. 1999) (citing *Del-Rio Drilling Programs, Inc. v. United States*, 146 F.3d 1358, 1367 (Fed. Cir. 1998) (stating that “[t]here are, of course, instances in which . . . Congress has displaced Tucker Act jurisdiction in favor of some other remedial scheme”)).

Plaintiff’s \$25 claim against the Social Security Administration, no matter the triviality of the amount sought, is simply brought in the wrong court. The Social Security Act (“the Act”) provides that challenges relating to social security benefits “shall be brought in the district court of the United States for the judicial district in which the plaintiff resides.” 42 U.S.C. § 405(g). The Act affirms the exclusivity of this jurisdictional grant by providing that no decision regarding social security benefits “shall be reviewed by any person, tribunal, or governmental agency” except as provided for in the Act. *See* 42 U.S.C. § 405(h). Thus, the plain language of the Act makes it clear that all claims relating to social security benefits must be filed in federal district court. *See Marcus v. United States*, 909 F.2d 1470, 1471 (Fed. Cir. 1990) (holding that the Court of Federal Claims does not have jurisdiction over claims relating to social security benefits); *Treece v. United States*, 96 Fed. Cl. 226, 230 (2010) (same). Simply put, plaintiff’s

claim does not fall within the purview of the Tucker Act because Congress has placed jurisdiction elsewhere. *See Massie v. United States*, 166 F.3d at 1188.

Plaintiff states several other grounds for jurisdiction. In his response to defendant's motion to dismiss, *see* Pl.'s Resp. to Def.'s Mot. to Dismiss ("Pl.'s Resp.") at 1, plaintiff astonishingly contends that Article III of the U.S. Constitution, the Seventh Amendment of the U.S. Constitution, as well as several criminal statutes, directly confer jurisdiction on the Court of Federal Claims to hear his claim. Pl.'s Resp. at 1. But none of these provisions are money-mandating. And any argument that they are is specious at best.

For the foregoing reasons, defendant's MOTION TO DISMISS the complaint for lack of jurisdiction is GRANTED. The Clerk is directed to take the necessary steps to dismiss this matter.

**IT IS SO ORDERED.**

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**Lawrence J. Block**  
**Judge**