

No. 06-110 C
UNPUBLISHED
(Filed March 1, 2006)

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CRAWFORD, CURTIS E., *

Plaintiff, *

Pro se; 28 U.S.C. § 1491(a)(1)
(2000)

v. *

THE UNITED STATES, *

Defendant. *

* * * * *

Curtis E. Crawford, pro se.

OPINION & ORDER

BUSH, Judge

Plaintiff filed his *pro se* complaint on February 13, 2006, along with an application to proceed *in forma pauperis*. The United States has not yet entered an appearance in this suit. Because plaintiff's claims are not within the jurisdiction of this court, the court addresses the issue of jurisdiction *sua sponte* and dismisses the subject matter.

BACKGROUND

The court is able to discern two claims in plaintiff's handwritten complaint. The first claim relates to alleged improprieties in the manner plaintiff was apprehended by United States Marshals on March 25, 2005. Plaintiff asserts that he was beaten and that this treatment constituted an "act of excessive use of force

and abuse of authority by person under color of government.” Plaintiff seeks compensatory damages in the amount of \$25,000,000.00 for this claim.

The second claim is that plaintiff’s gold watch was taken by a United States Marshal while he was being searched at the courthouse after his arrest. Mr. Crawford alleges that he was not given a receipt for his watch and that it was never returned to him. Mr. Crawford now seeks compensatory damages in the amount of \$50,000.00 for the loss of his watch. Plaintiff also requests punitive damages in an unspecified amount.

Plaintiff is currently incarcerated in federal prison and asserts that he has no financial resources from which to pay the fees associated with prosecuting this action.

DISCUSSION

I. *Pro Se* Litigants

The court acknowledges that Mr. Crawford is proceeding *pro se*, and is “not expected to frame issues with the precision of a common law pleading.” *Roche v. United States Postal Serv.*, 828 F.2d 1555, 1558 (Fed. Cir. 1987). *Pro se* plaintiffs are entitled to a liberal construction of their pleadings. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972) (requiring that allegations contained in a *pro se* complaint be held to “less stringent standards than formal pleadings drafted by lawyers”). Accordingly, the court has examined the complaint thoroughly and attempted to discern all of plaintiff’s claims. However, plaintiff bears the burden of establishing subject matter jurisdiction. *Alder Terrace, Inc. v. United States*, 161 F.3d 1372, 1377 (Fed. Cir. 1998) (citing *McNutt v. Gen. Motors Acceptance Corp. of Ind.*, 298 U.S. 178, 189 (1936)). If jurisdiction is found to be lacking, this court must dismiss the action. RCFC 12(h)(3).

II. Tucker Act Jurisdiction

This court’s jurisdiction, based on the Tucker Act, 28 U.S.C. § 1491(a)(1) (2000), is a grant of

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.

Id. The Tucker Act functions as a jurisdictional statute, but plaintiffs in this court must, in addition, find their substantive right to bring an action on a specific source of law. *United States v. Testan*, 424 U.S. 392, 400 (1976). The United States Supreme Court decided that this court may generally entertain a suit only if it is founded upon a claim for money allegedly due to the plaintiff from the government. *Id.* at 397-98; *see also Kanemoto v. Reno*, 41 F.3d 641, 644-45 (Fed. Cir. 1994) (noting that, with limited exceptions, only monetary relief is available from this court).

Mr. Crawford has not pled a specific money-mandating source of law which would support his claims for compensatory and punitive damages. The court, in an effort to ensure that any claims by Mr. Crawford that are properly before this court are heard, will nonetheless discuss the limits of its jurisdiction as they pertain to the sources of law which are sometimes pled in support of claims such as plaintiff's. This discussion is purely jurisdictional in nature, and makes no findings of fact, nor does it reach the merits of Mr. Crawford's claims.

A. Fourth Amendment

Assuming that Mr. Crawford has alleged irregularities in his apprehension by United States Marshals on March 25, 2005 that would violate the protections afforded him by the Fourth Amendment of the United States Constitution, such claims are not cognizable in this court. The Fourth Amendment does not mandate payment of monetary damages by the United States for its violation. *See Brown v. United States*, 105 F.3d 621, 623-24 (Fed. Cir. 1997). If the unnamed individual defendants in plaintiff's complaint are to be sued on Fourth Amendment grounds through a civil rights suit under 42 U.S.C. § 1983 (2000), the proper forum is a United States District Court. *See Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971); *Brown*, 105 F.3d at 624; *Berdick v. United States*, 612 F.2d 533, 536 (Ct. Cl. 1979); *Marlin v. United States*, 63 Fed. Cl. 475, 476 (2005) (stating that this "[c]ourt does not have

jurisdiction to consider civil rights claims brought pursuant to 42 U.S.C. §§ 1981, 1983, or 1985 because jurisdiction over claims arising under the Civil Rights Act resides exclusively in the district courts”) (citations omitted). Thus, any of Mr. Crawford’s claims that could be construed as alleging Fourth Amendment violations are beyond the jurisdiction of this court.

B. Tort Claims

This court does not possess jurisdiction to hear claims alleging tortious government misconduct. *See New Am. Shipbuilders, Inc. v. United States*, 871 F.2d 1077, 1079 (Fed. Cir. 1989) (confirming that when “government misconduct alleged [i]s tortious, jurisdiction is not granted [to] the Claims Court”); *Carter v. United States*, 62 Fed. Cl. 66, 72 (2004) (stating that “[t]he language of the statutes which confer jurisdiction upon the Court of Claims, excludes by the strongest implication demands against the government founded on torts”) (quoting *Gibbons v. United States*, 75 U.S. 269, 275 (1868)). The court lacks jurisdiction because “[t]he Tucker Act expressly provides that the ‘United States Court of Federal Claims shall have jurisdiction . . . in cases *not* sounding in tort.’” *Shearin v. United States*, 992 F.2d 1195, 1197 (Fed. Cir. 1993) (quoting 28 U.S.C. § 1491(a)(1) and adding emphasis). Here, Mr. Crawford asserts that an employee of the federal government took his gold watch, did not give him a receipt and that this watch was never returned to him.

Depriving a rightful owner of his personal property, or of control over that property, is the tort of conversion:

Conversion is an intentional exercise of dominion or control over a chattel which so seriously interferes with the right of another to control it that the actor may justly be required to pay the other the full value of the chattel.

Restatement (Second) of Torts, § 222A(1) (1965). Mr. Crawford’s claim that his watch was taken and no receipt given, in essence that he was deprived of possession and control over his watch, is a claim against the United States for conversion. It is well established that claims sounding in the tort of conversion are not within the jurisdiction of this court. *See, e.g., Walter E. Heller & Co. Southeast v. United States*, 231 Ct. Cl. 713, 715 (1982). Therefore, plaintiff’s

claim regarding his gold watch must be dismissed for lack of jurisdiction.

CONCLUSION

For the foregoing reasons, it is hereby **ORDERED** that:

- (1) Plaintiff's motion to proceed *in forma pauperis*, filed February 13, 2006, is **GRANTED**;
- (2) The Clerk's office is directed to **DISMISS** plaintiff's complaint, filed February 13, 2006, without prejudice;
- (3) No costs.

s/Lynn J. Bush
Lynn J. Bush
Judge