

# In the United States Court of Federal Claims

No. 05-561C

(Filed: July 8, 2005)

NOT FOR PUBLICATION

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KEVIN RONDEAU,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

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## ORDER DISMISSING CASE

In this pro-se action,<sup>1</sup> the plaintiff, Kevin Rondeau, alleges that the United States government, the Department of Justice, the President, the United States Supreme Court, the United States Court of Appeals for the First Circuit, the United States District Court for the District of New Hampshire, together with various federal officials and other non-federal parties including the Catholic Church, the State of New Hampshire, and numerous private individuals, violated his constitutional and civil rights and committed torts and crimes against him in connection with the plaintiff's efforts to regain custody of his daughter following his divorce in 1990. The plaintiff seeks monetary damages as well as declaratory and injunctive relief.

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<sup>1</sup>The plaintiff's May 18, 2005 application to proceed without payment of fees is granted for purposes of consideration of the plaintiff's complaint.

As a pro se party, Mr. Rondeau is entitled to a liberal construction of his pleadings. Haines v. Kerner, 404 U.S. 519, 520 (1972); Paalan v. United States, 57 Fed. Cl. 15, 16 (2003). However, he is not relieved from establishing this court's jurisdiction under the Tucker Act, 28 U.S.C. § 1491 (2005). For the reasons that follow, the court finds that it does not have jurisdiction to hear any of the plaintiff's claims for monetary damages or declaratory or injunctive relief. Accordingly, the action must be dismissed in its entirety.<sup>2</sup>

## DISCUSSION

### 1. Dismissal of all Non-Federal Defendants

In his ninety-two page complaint, the plaintiff names numerous private parties and non-federal institutions whom he charges have violated his rights and caused him damage. These parties include: the Catholic Church, the State of New Hampshire, the New Hampshire Supreme Court, the New Hampshire Legislature, several counties in New Hampshire, individual police officers, multiple attorneys, law firms, doctors, and his mother. This court does not have jurisdiction over the plaintiff's claims against any of these institutions, religious entities, states or individuals. Under the Tucker Act, the Court

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<sup>2</sup> The court notes that the plaintiff has apparently litigated many of these issues against various state and local officials in New Hampshire. Many of the plaintiff's claims in this case arise from his frustration with those prior rulings. Rondeau v. Rondeau, 541 U.S. 978 (April 5, 2004) (denying certiorari), reh'g denied, 541 U.S. 1096 (June 7, 2004); Rondeau v. Rondeau, 540 U.S. 1055 (Dec. 1, 2003) (denying certiorari); Rondeau v. New Hampshire, 534 U.S. 876 (Oct. 1, 2001) (denying certiorari); Rondeau v. New Hampshire, No. 00-2132, 2001 WL 893953 (1st Cir. Aug. 2, 2001) (unpublished per curiam decision); Rondeau ex rel. Rondeau v. New Hampshire, 201 F.3d 428 (1st Cir. 1999) (table decision), cert. denied, Rondeau v. New Hampshire, 528 U.S. 854 (1999), reh'g denied, 528 U.S. 1106 (2000); Rondeau v. New Hampshire, No. CIV. 94-289-SD, 1994 WL 262930 (D.N.H. May 31, 1994).

of Federal Claims has jurisdiction to “render judgments 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 . . . contract . . . with the United States, or for damages . . . in cases not sounding in tort.” 28 U.S.C. § 1491(a)(1). Because the Court is limited to adjudicating claims against the United States, it does not have jurisdiction to resolve private disputes or to resolve claims against state or religious institutions. Therefore, all of the plaintiff’s claims against non-federal parties must be dismissed for lack of jurisdiction.

2. Dismissal of Claims Sounding in Tort

A review of the plaintiff’s complaint reveals that many of his claims against the remaining federal officials and entities named in his complaint, including the President, the Supreme Court, and various federal officials, turn on allegations of negligence, fraud, slander, libel, and the intentional infliction of emotional distress. These are claims sounding in tort and are outside this court’s jurisdiction. As noted above, this Court does not have jurisdiction over claims sounding in tort. See 28 U.S.C. § 1491(a)(1); Brown v. United States, 105 F.3d 621, 623 (Fed. Cir. 1997). Accordingly, all of the plaintiff’s claims sounding in tort must be dismissed.

3. Dismissal of Claims based on Constitutional Provisions

The plaintiff also claims that he is entitled to relief for various violations of his constitutional rights under Article I, §§ 8, 9, 10 and Article VI, § 2 of the U.S. Constitution, and for violations of his rights under the First, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth,

Tenth, and Fourteenth Amendments. Although this court has jurisdiction over claims for taking of property under the Fifth Amendment because that amendment mandates the payment of compensation, none of the other constitutional provisions the plaintiff has cited mandate the payment of compensation, and thus this court does not have jurisdiction over claims under them. See United States v. Testan, 424 U.S. 392, 398 (1976); Khan v. United States, 201 F.3d 1375, 1377-78 (Fed. Cir. 2000) (“[A] plaintiff must identify a . . . constitutional provision . . . that provides a substantive right to money damages.”). Moreover, the plaintiff has not alleged any taking of property under the Fifth Amendment. Accordingly, all of the plaintiff’s claims based on violations of the U.S. Constitution must be dismissed.

4. Dismissal of Claims based on Civil Rights Laws

The plaintiff also claims that the federal government and various federal officials violated his civil rights. This court does not have jurisdiction over claims based on alleged violations of the civil rights laws; that jurisdiction is afforded to the district courts. 28 U.S.C. § 1343(a); Anderson v. United States, 22 Cl. Ct. 178, 179 n.2 (1990).

Accordingly, the plaintiff’s civil rights claims must also be dismissed for lack of jurisdiction.

5. Dismissal of RICO and Various Conspiracy Claims

The plaintiff alleges that many of the actions of which he complains give rise to a claim under the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-

1968 (2005) (“RICO”). RICO provides that the district courts shall have exclusive jurisdiction to hear cases arising under the Act. 18 U.S.C. § 1965(a) (“Any civil action or proceeding under this chapter against any person may be instituted in the district court . . . in which such person resides . . .”). Plaintiff’s claims arising under RICO must therefore be dismissed.

6. Dismissal of Criminal Charges

The plaintiff also alleges that various crimes have been committed against him and he seeks redress for these crimes. It is well-settled that this court does not have jurisdiction over criminal matters. *E.g.*, Sanders v. United States, 252 F.3d 1329, 1336 (Fed. Cir. 2001) (“It is particularly unreasonable to suppose that Congress in enacting the Tucker Act intended for [the Court of Federal Claims] to intervene in the delicate and sensitive business of conducting criminal trials.”) (quoting Kania v. United States, 227 Ct. Cl. 458, 465, 650 F.2d 264, 268-69 (1981)). The plaintiff’s claims involving allegations of criminal activity must therefore be dismissed.

7. Dismissal of Remaining Claims for Declaratory and Equitable Relief

Finally, the plaintiff seeks declaratory and injunctive relief to redress the many wrongs he has identified in his complaint. Under the terms of the Tucker Act, this Court may only provide injunctive and declaratory relief to the extent that the relief is “incidental to and collateral to a claim for money damages.” Bobula v. United States, 970 F.2d 854, 859 (Fed. Cir. 1992); Record Steel & Constr., Inc. v. United States, 62 Fed. Cl. 508, 520

(2004). Here, because the plaintiff has failed to state a claim for money damages against the United States under the Tucker Act, the plaintiff's claims for injunctive and declaratory relief must also be dismissed.

### **CONCLUSION**

For the foregoing reasons, the court has determined that all of the plaintiff's claims must be dismissed for lack of subject matter jurisdiction. Accordingly, the clerk is directed to dismiss the plaintiff's complaint without prejudice. Each party to bear its own costs.

**IT IS SO ORDERED.**

s/Nancy B. Firestone  
NANCY B. FIRESTONE  
Judge