

**In the United States Court of Federal Claims**

**No. 07-723C  
(Filed: November 5, 2007)  
NOT FOR PUBLICATION**

\* \* \* \* \*

**LAWRENCE V. WILDER, SR.,**

**Plaintiff,**

**v.**

**THE UNITED STATES,**

**Defendant.**

\* \* \* \* \*

**ORDER DISMISSING CASE FOR  
LACK OF SUBJECT MATTER JURISDICTION**

Pending before the court is pro se plaintiff Lawrence V. Wilder’s (“plaintiff” or “Wilder”) complaint filed October 12, 2007. Though Mr. Wilder’s complaint is not entirely clear, it apparently alleges, among other things, that the defendant United States (“defendant” or “government”) has prevented Mr. Wilder from benefitting from any rights to which he should be entitled, including “settlement entitlement, OPM personnel action, [and] classification acts.” Compl. at 1. Mr. Wilder contends that he was “never notified, as required, by anyone, of any eligibility to participate as a member of any personnel-related matters.” Compl. at 1-2. Mr. Wilder seeks the court’s assistance in requiring the United States Department of Health and Human Services (“DHHS”), by which he was employed from 1987 - 1997, to cooperate with Mr. Wilder in his efforts to participate in personnel-related matters. Compl. at 1.

Specifically, Mr. Wilder alleges that he had a property interest in his employment with DHHS, and that his interest was taken by the government, in violation of the Due Process Clause of the Fifth Amendment, when he was removed from his position of

Health Insurance Specialist in May 1997. Compl. at 2. Mr. Wilder contends that he was wrongfully removed by the government because the government acted unreasonably in effecting his removal and because the plaintiff suffered from a disability stemming from a work-related injury at the time of his removal. *Id.* Mr. Wilder also claims that he is entitled to payment from the government for “Governmental misconduct in the form of perjury and subsequent confession” stemming from a complaint filed by Mr. Wilder in the United States District Court for the District of Maryland in 1996. *Id.* Mr. Wilder contends that both the District Court and the government acted inappropriately and unethically in handling his complaint and that the complaint was erroneously dismissed by the District Court. Compl. at 3. Mr. Wilder asserts that his complaint is brought under “the Equal Pay Act, Classification Act, Back [P]ay Act, the Federal Labor Standards Act, and any John Doe Act violations that may arise from this claim.”<sup>1</sup> Compl. at 1. Mr. Wilder, relying on *Irwin v. United States*, 498 U.S. 89 (1990), also contends that any statute of limitations that could bar his claim should have been tolled in 1997, because in 1997 Mr. Wilder was induced or tricked by adversaries into believing that he had appropriately filed a claim seeking relief.

Because Mr. Wilder is proceeding *pro se*, he is entitled to a liberal construction of his pleadings. *See, e.g., Hughes v. Rowe*, 449 U.S. 5, 9 (1980) (holding that *pro se* complaints be held to “less stringent standards than formal pleadings drafted by lawyers” (quoting *Haines v. Kerner*, 404 U.S. 519, 520 (1972))); *McSheffrey v. United States*, 58 Fed. Cl. 21, 25 (2003). However, a *pro se* plaintiff must still satisfy the court’s jurisdictional requirements. *Bernard v. United States*, 59 Fed. Cl. 497, 499 (Fed. Cir. 2004) (“This latitude, however, does not relieve a *pro se* plaintiff from meeting jurisdictional requirements.”), *aff’d*, 98 Fed. Appx. 860 (Fed. Cir.), *reh’g denied*, 48 Fed. Appx. 860.

Indeed, the court “may and should raise the question of its jurisdiction *sua sponte* at any time it appears in doubt.” *Calhoun v. United States*, 98 Fed. Appx. 840, 842 (Fed. Cir. 2004) (quoting *Arctic Corner, Inc. v. United States*, 845 F.2d 999, 1000 (Fed. Cir. 1988)). “[C]ourts must always look to their jurisdiction, whether the parties raise the issue or not.” *View Eng’g Inc. v. Robotic Vision Sys., Inc.*, 115 F.3d 962, 963 (Fed. Cir. 1997). Rule 12(h)(3) of the Rules of the United States Court of Federal Claims (“RCFC”) requires that “[w]henver it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.” Under RCFC 8(a)(1), a complaint must contain “a short and plain statement of the grounds upon which the court’s jurisdiction depends.” “Determination of jurisdiction

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<sup>1</sup>The court assumes that the phrase “Federal Labor Standards Act” refers to the Fair Labor Standards Act, 29 U.S.C. §§ 201-19 (2000).

starts with the complaint, which must be well-pleaded in that it must state the necessary elements of the plaintiff's claim, independent of any defense that may be interposed." Holley v. United States, 124 F.3d 1462, 1465 (Fed. Cir. 1997).

The Court of Federal Claims is a court of limited jurisdiction, Jentoft v. United States, 450 F.3d 1342, 1349 (Fed. Cir. 2006) (citing United States v. King, 395 U.S. 1, 3 (1969)), and under the Tucker Act, 28 U.S.C. § 1491 (2000), may "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." 28 U.S.C. § 1491(a)(1). However, the Tucker Act simply confers jurisdiction on this court; a plaintiff must also identify a separate money-mandating statute upon which to base a claim for damages. See Todd v. United States, 386 F.3d 1091, 1094 (Fed. Cir. 2004); Tippett v. United States, 185 F.3d 1250, 1254 (Fed. Cir. 1999) ("[T]he plaintiff must assert a claim under a separate money-mandating constitutional provision, statute, or regulation, the violation of which supports a claim for damages against the United States.") (quoting James v. Caldera, 159 F.3d 573, 580 (Fed. Cir. 1998)). In determining jurisdiction, this court must ask "only whether the plaintiff is within the class of plaintiffs entitled to recover under the statute if the elements of a cause of action are established." Greenlee County v. United States, 487 F.3d 871, 876 (Fed. Cir. 2007). See also Brodowy v. United States, 482 F.3d 1370, 1375 (Fed. Cir. 2007) ("Where plaintiffs have invoked a money-mandating statute and have made a non-frivolous assertion that they are entitled to relief under the statute, we have held that the Court of Federal Claims has subject-matter jurisdiction over the case.").

Mr. Wilder apparently contends that he was inappropriately removed from his position of employment with DHHS in 1997. However, Mr. Wilder does not seek monetary damages as compensation for his alleged wrongful termination. Instead, Mr. Wilder asks the court, under its "mandamus authority," to "require the Department and the Office of Personnel Management to cooperate with this claim and to cease all legal impediments from exercising [his] right in court." Compl. at 1. While Mr. Wilder refers to several federal statutes in his complaint, he does not identify a specific money-mandating statute upon which to base a claim for damages, nor does he specify any specific monetary damages that he seeks.

Mr. Wilder states that he relies on the Equal Pay Act, 29 U.S.C. § 206(d) (2000), the Classification Act, 5 U.S.C. § 5101 (1982), the Back Pay Act, 5 U.S.C. § 5596 (1982), the Fair Labor Standards Act, 29 U.S.C. §§ 201-19 (2000) ("FLSA"), and the Due Process Clause of the Fifth Amendment. The Equal Pay Act provides for damages for disparities in wages based on gender discrimination, which the plaintiff does not allege

occurred during his employment by DHHS. Accordingly, the Equal Pay Act does not apply to the plaintiff's claims. The Classification Act has been repeatedly held to not support a claim for money damages. *See, e.g., United States v. Testan*, 424 U.S. 392, 402 (1976); *Franklin Sav. Corp. v. United States*, 56 Fed. Cl. 720, 751 (2003). Similarly, the Federal Circuit has held that the Back Pay Act does not provide this court with jurisdiction. *Salinas v. United States*, 323 F.3d 1047, 1049 (Fed. Cir. 2003); *United States v. Connolly*, 716 F.2d 882, 887 (Fed. Cir. 1983). *See also Grosdidier v. United States*, 77 Fed. Cl. 106, 108-09 (2007). Accordingly, this court does not have jurisdiction over the plaintiff's claims to the extent that they are based on the Classification Act or the Back Pay Act. Finally, while this court does have jurisdiction over claims brought under the FLSA, the plaintiff simply mentions the FLSA, and does not make any specific assertion that he is entitled to a claim for relief due to the government's violation of the FLSA. Because the plaintiff has not "made a non-frivolous assertion that [he is] entitled to relief under the statute," this court does not have jurisdiction over the plaintiff's FLSA claims. *Brodowy v. United States*, 482 F.3d at 1375. Finally, to the extent that Mr. Wilder seeks relief under the Due Process Clause of the Fifth Amendment, such a claim is not within the jurisdiction of this court. *See, e.g., LeBlanc v. United States*, 50 F.3d 1025, 1028 (Fed. Cir. 1995); *Bernard v. United States*, 59 Fed. Cl. 497, 502 (2004) ("The remedy for violations of the Due Process Clause . . . is not the payment of money but equitable relief that can only be afforded by an Article III court."). In circumstances such as these, where the plaintiff has not stated any monetary claim, dismissal for lack of subject matter jurisdiction is appropriate.

For all of the foregoing reasons, the plaintiff's complaint is **DISMISSED** for lack of subject matter jurisdiction. The Clerk of the Court is directed to enter judgment accordingly.

**IT IS SO ORDERED.**

s/Nancy B. Firestone  
NANCY B. FIRESTONE  
Judge\_