

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

**NOT FOR PUBLICATION  
Nos. 10-585C & 10-591C  
Consolidated  
(Filed: September 3, 2010)**

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**CHERYL D. UZAMERE,**

**Plaintiff,**

**v.**

**THE UNITED STATES,**

**Defendant.**

\* \* \* \* \*

**ORDER DISMISSING COMPLAINTS FOR LACK OF JURISDICTION**

On August 30, 2010, Cheryl D. Uzamere (“Ms. Uzamere” or “the plaintiff”) filed a pro se complaint (No. 10-585C) against the United States (“the government” or “the defendant”) alleging various constitutional violations in connection with her dealings with the federal judiciary and in particular this Court.<sup>1</sup> The August 30, 2010 action has been consolidated with Ms. Uzamere’s second pro-se complaint filed September 1, 2010

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<sup>1</sup>The court grants Ms. Uzamere’s requests to proceed *in forma pauperis* for purposes of filing the complaints addressed in this order.

(No. 10-591C).<sup>2</sup> The second complaint is identical in all material respects to a complaint (No. 10-555C) that the plaintiff had filed on August 16, 2010 and then withdrew on August 19, 2010. The first complaint includes claims relating to the withdrawal of the complaint on August 19, 2010. The second complaint includes claims against various individuals in the executive and judicial branches of the United States who according to the plaintiff have either violated her constitutional rights or failed to investigate or take action on her constitutional claims. For the reasons set forth below, the complaints in this consolidated action must be **DISMISSED** for lack of subject matter jurisdiction under Rule 12(b)(1) of the Rules of the Court of Federal Claims.

### **BACKGROUND**

The following allegations of fact are taken from the plaintiff's two complaints. The first action (No. 10-585C) alleges that the United States has failed to protect her from violations of her constitutional rights by various individuals in the judicial and executive branches of the United States and the judicial branch of the State of New York. In particular, the plaintiff alleges that the United States Department of Justice has refused to "prosecute Ashkenazi judges who violate the U. S. Constitution." No. 10-585C at 3. She also alleges that the Clerk of Court for the United States Court of Claims and the Honorable Christine O.C. Miller, a judge on the United States Court of Claims, violated

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<sup>2</sup>An order consolidating the cases was issued on September 2, 2010.

her constitutional rights when she initially filed complaint No. 10-555C, and the case was assigned to Judge Miller. The plaintiff alleges that the Clerk of Court and Judge Christine O.C. Miller violated her constitutional rights when Judge Miller did not recuse herself from the case and when the Clerk's office allegedly hindered the plaintiff's effort to voluntarily withdraw the lawsuit.

In her second complaint, No. 10-591C, which is the same in all material respects as the complaint filed as No. 10-555C, the plaintiff alleges among other things that her constitutional rights have been violated by "judicial acts of fraud upon the court resulting from Asheknazi judges' enforcement of the Talmudic doctrine the Law of the Moser in judicial settings." In complaint No. 10-591C, the plaintiff also alleges that her constitutional rights have been violated by individuals in the "United States' executive and judiciary branches who are Ashkenazim [and have] failed to investigate Plaintiff's well-founded claims." No. 10-585C at 4; No. 10-591C at 22.<sup>3</sup>

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<sup>3</sup> Ms. Uzamere's allegations concerning her treatment by the judiciary apparently stem from problems she encountered in legal proceedings against Mr. Ehigie Edobar Uzamere her alleged husband. No. 10-591C at 25-40, 57-59. It appears Ms. Uzamere then began filing legal proceedings against various public and private individuals involved in the initial proceedings, ultimately leading to Ms. Uzamere being enjoined from commencing any further related actions in the New York State Unified Court System. No. 10-591C at 41-47. Ms. Uzamere also began legal proceedings against a New York-based newspaper for running an unflattering account of the initial proceedings. No. 10-591C at 25, 48-56. Unsatisfied with her attempts before the judiciary, Ms. Uzamere then began contacting various federal agencies to request they investigate and prosecute the various public and private individuals involved in the initial and subsequent proceedings described above for alleged violations of her constitutional rights. No. 10-591C at 60-63. Ms. Uzamere now brings her collection of complaints before this court, as described above.

## STANDARD OF REVIEW

Because the plaintiff is proceeding pro se, she is entitled to a liberal construction of her pleadings. See, e.g., Hughes v. Rowe, 449 U.S. 5, 9 (1980) (holding that pro se complaints should 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, pro se plaintiffs must still satisfy the court’s jurisdictional requirements. Bernard v. United States, 59 Fed.Cl. 497, 499 (2004) (“This latitude, however, does not relieve a pro se plaintiff from meeting jurisdictional requirements.”), aff’d, 98 Fed.Appx. 860 (Fed. Cir. 2004), reh’g denied, 48 Fed.Appx. 860 (Fed. Cir. 2004). Accordingly, the burden is on Ms. Uzamere to establish that this court has jurisdiction to hear her complaints. As discussed below, despite having listed a number of intended sources of jurisdiction in the complaints, the plaintiff has failed to establish any basis for jurisdiction in the Court of Federal Claims in either action, and therefore her complaints must be dismissed.

The court’s decision to address the jurisdictional issues sua sponte is mandated by law. John R. Sand & Gravel Co. v. United States, 457 F.3d 1345, 1353 (Fed. Cir. 2006) (citing Consolidation Coal Co. v. United States, 351 F.3d 1374, 1378 (Fed. Cir. 2003)), aff’d, 128 S.Ct. 750 (2008); Arctic Corner, Inc. v. United States, 845 F.2d 999, 1000 (Fed. Cir. 1988) (“A court may and should raise the question of its jurisdiction sua sponte at any time it appears in doubt.”). Rule 12(h)(3) of the Rules of the United States Court

of Federal Claims (“RCFC”) requires that “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” Indeed, “courts 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) (emphasis added); Dowd v. United States, 713 F.2d 720, 726 (Fed. Cir. 1983) (“Lack of jurisdiction may not be waived by the parties nor ignored by the court.”).

In this connection, it is important to note that 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 may only hear a claim brought against the United States for constitutional violations or statutory violations when those violations authorize a claim for money damages. See 28 U.S.C. § 1491(a) (2008); United States v. Testan, 424 U.S. 392, 397-98 (1976); In re United States, 463 F.3d 1328, 1333-34 (Fed. Cir. 2006) (citing Todd v. United States, 386 F.3d 1091, 1094 (Fed. Cir. 2004)).

The plaintiff’s complaints list a number of intended bases for jurisdiction, including: the First, Fifth, and Fourteenth Amendments to the United States Constitution; 18 U.S.C. § 4 (criminalizing the concealment and non-reporting of a felony by a person with knowledge of the actual commission of the felony); and 28 U.S.C. § 455 (prescribing the reasons for which a justice, judge or magistrate of the United States shall disqualify herself from a proceeding). No. 10-585C at 4, 6-12; No. 10-591C at 2, 14-22.

The plaintiff also identifies Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971) as a basis for jurisdiction. No. 10-585C at 1, 7, 8; No. 10-591C at 16, 20, 22.

For the reasons set forth below, the court concludes that it does not have subject matter jurisdiction over any of the plaintiff's claims in either of the complaints.

## **DISCUSSION**

### **I. The August 30, 2010 Complaint**

#### **A. The Plaintiff Has Not Alleged a Money-Mandating Claim under 28 U.S.C. § 455**

The plaintiff alleges in Count I of her complaint “judicial acts of fraud” by “Ashkenazi judges,” including actions by the Honorable Christine O.C. Miller who plaintiff alleges “failed to invoke 28 USC § 455 [sic] to recuse herself from Plaintiff’s lawsuit” causing plaintiff to “suffer[] having to voluntarily dismiss her lawsuit in order to prevent the Honorable Christine O.C. Miller from illegally rendering a decision on Plaintiff’s lawsuit.” See No. 10-585C at 4, 6-7. Claims for alleged judicial misconduct under 28 U.S.C. § 455 are not money-mandating and therefore cannot serve as a basis for jurisdiction in this court. For this reason, plaintiff’s claims under 28 U.S.C. § 455 are dismissed for lack of jurisdiction.

#### **B. The Court of Federal Claims Does Not Have Jurisdiction to Hear the Plaintiff’s First Amendment Claims**

The plaintiff alleges in Counts II, III, and IV of her complaint an unlawful violation of her First Amendment rights to “freedom of speech,” “to be free from the

establishment of a government-sponsored religion,” and “to petition the government for a redress of grievances, and to be heard.” See No. 10-585C at 4, 7-10. This court lacks jurisdiction to consider claims under the First Amendment because it does not mandate the payment of money damages for violations. See United States v. Connolly, 716 F.2d 882, 886-87 (Fed.Cir. 1983), cert. denied, 465 U.S. 1065 (1984) (“the first amendment, standing alone, cannot be so interpreted to command the payment of money”). For this reason, the plaintiff’s claims under the First Amendment are dismissed for lack of jurisdiction.

**C. The Court of Federal Claims Does Not Have Jurisdiction to Hear the Plaintiff’s Due Process Claims**

The plaintiff alleges in Counts I and V of her complaint an unlawful violation of her Fifth Amendment due process rights. See No. 10-585C at 4, 10-11. It is well established that the Court of Federal Claims lacks jurisdiction over Fifth Amendment due process claims because the Due Process Clause is not a money-mandating provision. See, e.g., Flowers v. United States, 321 F. App’x 928, 934 (citing James v. Caldera, 159 F.3d 573, 581 (Fed. Cir. 1998) ); LeBlanc v. United States, 50 F.3d 1025, 1028 (Fed. Cir.1995) (indicating that the Due Process Clause of the Fifth Amendment cannot provide the Court of Federal Claims with jurisdiction because it “do[es] not mandate payment of money by

the government”).<sup>4</sup> For this reason, the plaintiff’s claims under the Due Process Clause are dismissed for lack of jurisdiction.

**D. The Court of Federal Claims Does Not Have Jurisdiction to Hear the Plaintiff’s Equal Protection Claims**

Plaintiff alleges in Count VI of her complaint an unlawful violation of her Fourteenth Amendment equal protection rights. See No. 10-585C at 4, 11-12. The Equal Protection Clause of the Fourteenth Amendment does not mandate payment of money by the federal government for its violation, and therefore this court lacks jurisdiction over such claims. LeBlanc, 50 F.3d at 1028 (“[T]he Equal Protection Clause of the Fourteenth Amendment . . . is [not] a sufficient basis for jurisdiction because [it does] not mandate payment of money by the government.”). For this reason, plaintiff’s claims under the Equal Protection Clause are dismissed for lack of jurisdiction.

**E. The Court of Federal Claims Does Not Have Jurisdiction to Hear the Plaintiff’s “action in the manner of Bivens”**

The plaintiff alleges “an implied cause of action in the manner of Bivens.” See No. 10-585C at 1, 7, 8. Though the United States Supreme Court in Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), “held that a party may, under certain circumstances, bring an action for violations of constitutional rights against Government officials in their individual capacities, . . . [t]he Tucker Act

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<sup>4</sup>To the extent that the plaintiff alleges violations of the Due Process Clause of the Fourteenth Amendment, the same is true. LeBlanc, 50 F.3d at 1028 (indicating that the Due Process Clause of the Fourteenth Amendment cannot provide the Court of Federal Claims with jurisdiction because it “do[es] not mandate payment of money by the [federal] government”).



grants the Court of Federal Claims jurisdiction over suits against the United States, not against individual federal officials.” Brown v. United States, 105 F.3d 621, 624 (Fed. Cir. 1997) (citing Bivens, 402 U.S. at 388; 28 U.S.C. § 1491(a)). “Thus, the Bivens actions asserted by [the plaintiffs] lie outside the jurisdiction of the Court of Federal Claims.” Brown, 105 F.3d at 624. While it appears from her present complaint that the plaintiff has named only the United States as a defendant in this case, to the extent the plaintiff intended to bring claims against any of the individuals referenced in this or her previous complaint of August 16, those claims lie outside the jurisdiction of the Court of Federal Claims. For these reasons, the plaintiff’s alleged “implied cause of action in the manner of Bivens” is dismissed for lack of jurisdiction.

**F. The Court of Federal Claims Does Not Have Jurisdiction to Hear the Plaintiff’s “Demand for an Accounting”**

In addition to the plaintiff’s claims arising out of her interactions with this court, the plaintiff requests relief in the form of a “demand for an accounting” related to the underlying claims for relief against defendant and individual employees of the federal government and New York state presented in the lawsuit she filed in this court on August 16 and voluntarily dismissed on August 19. See No. 10-585C at 12-14, Exhibit E.<sup>5</sup> This court does not possess general equitable jurisdiction, aside from certain limited exceptions. See e.g. 28 U.S.C. § 1491(b)(2) (permitting the Court of Federal Claims to

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<sup>5</sup>On pages 12-14 of her complaint, plaintiff cites to her proposed “Exhibit A,” however it appears this was a mistake based upon her previous filing and should be read as “Exhibit E.”

grant declaratory and injunctive relief in bid protest actions); see also Wheeler v. United States, 11 F.3d 156, 159 (Fed.Cir.1993) (“The Court of Federal Claims lacks jurisdiction to grant such equitable relief absent a concurrent colorable claim for monetary recovery.”). Because the equitable relief requested by the plaintiff does not fall into one of these exceptions, the court is not able to exercise jurisdiction over her claim “for an accounting.” For these reasons, the plaintiff’s “demand for an accounting” is dismissed for lack of jurisdiction.

## **II. The September 1, 2010 Complaint**

### **A. The Court of Federal Claims Does Not Have Jurisdiction to Hear the Plaintiff’s Claims Pertaining to Violation of 18 U.S.C. § 4**

The plaintiff appears to allege that various defendants in this complaint<sup>6</sup> violated 18 U.S.C. § 4, which criminalizes the concealment and non-reporting of a felony by a person who has “knowledge of the actual commission of” the felony. See No. 10-591C at 2, 14-16. The Supreme Court has stated that “a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.” Linda R.S. v. Richard D., 410 U.S. 614, 619 (1973), and thus with respect to her invocation of 18 U.S.C. § 4, the plaintiff has failed to state a claim. Moreover, this court “has no jurisdiction over claims of criminal misconduct.” Dumont v. United States, 345 Fed.Appx. 586, 593 (Fed. Cir. 2009) (citing Joshua v. United States, 17 F.3d 378, 379

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<sup>6</sup> In No. 10-591C, the plaintiff names as defendants, in addition to the United States, Barack H. Obama, F. Michael Kelleher, and Eric H. Holder, Jr., among others.

(Fed.Cir. 1994) (summarily affirming the Court of Federal Claims “has no jurisdiction to adjudicate any claims whatsoever under the federal criminal code”)). For these reasons, the plaintiff’s claims pertaining to alleged violation of 18 U.S.C. § 4 is dismissed for lack of jurisdiction and failure to state a claim.

**B. The Court of Federal Claims Does Not Have Jurisdiction to Hear the Plaintiff’s First Amendment Claims**

The plaintiff alleges in Counts 2 and 4 of her complaint an unlawful violation of her First Amendment rights to “freedom of speech,” “to freedom from the establishment of a state-sponsored religion,” and “to redress grievances to the government.” See No. 10-591C at 16-18, 21-22. As discussed above in section I.B., this court does not have jurisdiction to consider claims under the First Amendment. For this reason, the plaintiff’s claims under the First Amendment are dismissed for lack of jurisdiction.

**C. The Court of Federal Claims Does Not Have Jurisdiction to Hear the Plaintiff’s Due Process Claims**

The plaintiff alleges in Counts 1 and 2 of her complaint an unlawful violation of her Fifth and Fourteenth Amendment rights to due process. See No. 10-591C at 14, 18. As discussed above in section I.C., this court does not have jurisdiction to consider claims under the Due Process Clauses of the Fifth or Fourteenth Amendments. For this reason, the plaintiff’s due process claims under the Fifth and Fourteenth Amendments are dismissed for lack of jurisdiction.

**D. The Court of Federal Claims Does Not Have Jurisdiction to Hear the Plaintiff's Equal Protection Claims**

The plaintiff alleges in Counts 2 and 3 of her complaint an unlawful violation of her Fourteenth Amendment right to equal protection. See No. 10-591C at 18-21. As discussed above in section I.D., this court does not have jurisdiction to consider claims under the Equal Protection Clause of the Fourteenth Amendment. For this reason, the plaintiff's equal protection claims under the Fourteenth Amendment are dismissed for lack of jurisdiction.

**E. The Court of Federal Claims Does Not Have Jurisdiction to Hear the Plaintiff's Bivens Actions**

The plaintiff alleges violation of her constitutional rights based on Bivens. See No. 10-591C at 16, 20, 22. As discussed above in section I.E., this court does not have jurisdiction to consider Bivens actions. For this reason, the plaintiff's alleged Bivens actions are dismissed for lack of jurisdiction.

**F. The Court of Federal Claims Does Not Have Jurisdiction to Hear the Plaintiff's "Demand for an Accounting"**

The plaintiff requests relief in the form of a "demand for an accounting" of the reasons why the United States government has failed to investigate certain alleged crimes of immigration and identity fraud as requested by the Plaintiff. See No. 10-591C at 22-23. As discussed above in section I.F., this court does not possess general equitable jurisdiction, aside from certain limited exceptions. Because the equitable relief requested by the plaintiff does not fall into one of these exceptions, the court is not able to exercise

jurisdiction over her claim “for an accounting.” For this reason, the plaintiff’s “demand for an accounting” is dismissed for lack of jurisdiction.

**CONCLUSION**

Because the court does not have subject matter jurisdiction over any of the claims in this consolidated action, the court does not express an opinion today on the merits of Ms. Uzamere’s claims. The Clerk is directed to dismiss the complaints in this consolidated case under RCFC 12(b)(1).

**IT IS SO ORDERED.**

s/Nancy B. Firestone  
NANCY B. FIRESTONE  
Judge