

# In the United States Court of Federal Claims

No. 04-1604C  
Filed: April 22, 2005

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JUANITA M. CRUMP-DONAHUE, \*

Plaintiff, \*

v. \*

THE UNITED STATES OF AMERICA, \*

Defendant. \*

\* \* \* \* \*

Juanita M. Crump-Donahue, Little Rock, Arkansas, pro se.

Dawn S. Conrad, Commercial Litigation Branch, Civil Division, United States  
Department of Justice, Washington, D.C., for defendant.

## OPINION AND ORDER

**HODGES**, Judge

Plaintiff Juanita M. Crump-Donahue filed this lawsuit pro se. She seeks monetary relief and legal costs from the United States for its allegedly improper processing of a civil rights complaint she filed with the United States Department of Agriculture. We filed an Order on November 29, 2004, noting that jurisdiction in this court was unlikely.<sup>1</sup> Thereafter, plaintiff sought a voluntarily dismissal and requested that we transfer her case to a court with appropriate jurisdiction. The Government opposed the transfer and filed a motion to dismiss for lack of jurisdiction. We do not have jurisdiction to hear plaintiff's Complaint, but she may have a cause of action in a federal district court. Therefore, we grant plaintiff's motion to transfer pursuant to 28 U.S.C. § 1631.

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<sup>1</sup> This court dismissed an earlier case that plaintiff had filed. Crump-Donahue v. United States, No. 03-192C (Fed. Cl. Sept. 16, 2003).

## BACKGROUND

Plaintiff has power of attorney over forty acres of farmland in Lonoke County, Arkansas. In 1997 and 1998, she sought “information and documentation relating to the farm’s past operations” from the Lonoke County Farm Service Agency. Her purpose was to “ascertain [her] future position and obligations in relationship to benefits such as farm subsidies, farm related opportunities, and the Black Farmers’ Settlement.” The County Agency’s executive director denied her access to the information.

Ms. Crump-Donahue filed a civil rights claim with the United States Department of Agriculture’s Office of Civil Rights in 1999, asserting the County Agency’s executive director would not process her claim according to procedure. The director of the Office of Civil Rights sent two letters to Ms. Crump-Donahue regarding her claim. The letters informed plaintiff that the OCR had dismissed her case “without processing” because it lacked jurisdiction to investigate her allegations. The director stated that the Inspector General’s office investigates the criminal allegations that plaintiff had asserted.<sup>2</sup>

Plaintiff’s Complaint in this case alleges violations of the Civil Rights Act of 1964 and the due process and equal protection clauses of the United States Constitution. Ms. Crump-Donahue amended her Complaint twice to clarify that her initial action was not a civil rights suit, but a claim against the USDA’s Office of Civil Rights for failing to comply with its complaint processing procedures. USDA Dept. Reg. 4300-6 (Mar. 18, 1998). Plaintiff also seeks review of OCR’s action under the Administrative Procedure Act, 5 U.S.C. §§ 701-706. She requests litigation costs and “redress” of one hundred million dollars for OCR’s alleged lack of compliance with mandatory procedures.

We issued an Order suggesting that jurisdiction in this court was unlikely, but that we would await the Government’s Answer. Crump-Donahue v. United States, No. 04-1604C (Fed. Cl. Nov. 29, 2004). Plaintiff then filed a motion for voluntary dismissal of all proceedings pursuant to RCFC 41(a) and requested a transfer of her original Complaint to federal district court. She also sought the right to re-file her original action with this court “if corrected pleadings deem the Court of Federal Claims the proper jurisdiction and venue.”

The Government filed a motion to dismiss plaintiff’s claims for lack of subject matter jurisdiction pursuant to RCFC 12(b)(1). Defendant also asked that we deny plaintiff’s request for transfer.

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<sup>2</sup> Plaintiff alleged in her Complaint that she filed a Fraud Hotline claim with the Inspector General.

## DISCUSSION

Ms. Crump-Donahue bears the burden of establishing jurisdiction by a preponderance of the evidence. Toxgon Corp. v. BNFL, Inc., 312 F.3d 1379, 1383 (Fed. Cir. 2002); Alder Terrace, Inc. v. United States, 161 F.3d 1372, 1377 (Fed. Cir. 1998). We “assume all factual allegations to be true and to draw all reasonable inferences in plaintiff’s favor” when ruling on a 12(b)(1) motion to dismiss. Henke v. United States, 60 F.3d 795, 797 (Fed. Cir. 1995).

This court accords latitude to pro se litigants in drafting pleadings. E.g., Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curium) (noting that allegations pro se plaintiffs make are held to a less stringent standard than formal pleadings that lawyers draft). We may ignore the legal labels that the pro se plaintiff attaches to her claims and recharacterize them to couple the substance of her pro se allegations with their underlying legal bases. Castro v. United States, 540 U.S. 375, 381-82 (2003); Hughes v. Rowe, 449 U.S. 5, 10 (1980) (per curium).

We construed Ms. Crump-Donahue’s pleadings liberally and used our best efforts to understand the legal theories that plaintiff appears to offer. Latitude accorded a pro se plaintiff does not exempt her from meeting jurisdictional requirements, however. Bernard v. United States, 59 Fed. Cl. 497, 499 (2004), aff’d, 98 Fed. App. 860, No. 04-5039, 2004 WL 842679 (Fed. Cir. Apr. 9, 2004), reh’g denied (2004).

The Tucker Act grants this court 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.

28 U.S.C. § 1491(a)(1). Plaintiff alleges that the Government violated her due process and equal protection rights under the Constitution.

The Tucker Act does not grant us the authority to hear “every claim involving or invoking the Constitution.” Eastport Steamship Corp. v. United States, 178 Ct. Cl. 599, 605 (1967). A plaintiff must identify and plead a Constitutional or statutory provision, a contractual relationship or an executive agency regulation that provides a substantive right to money damages. Khan v. United States, 201 F.3d 1375, 1377 (Fed. Cir. 2000).

A statute or provision must be “money-mandating” to come within the jurisdiction of this court. United States v. Testan, 424 U.S. 392, 398 (1976). The Federal Circuit addressed the meaning of “money-mandating” recently in Fisher v. United States, --- F.3d ---, No. 02-5082, 2005 WL 545195, at \*3 (Fed. Cir. Mar. 9, 2005) (en banc), overruling Gollehon Farming v. United States, 207 F.3d 1373, 1379 (Fed. Cir. 2000). The court ruled that a plaintiff must make “a non-frivolous allegation that a particular statute is reasonably amenable, with fair inferences

drawn, to a reading that it mandates money damages.” Id. In the absence of a money-mandating source of authority capable of meeting this requirement, the trial court “shall so declare, and shall dismiss the cause for lack of jurisdiction.” Id. at \*5.

Neither the due process clause nor the equal protection clause of the Constitution mandates compensation from the Government. Crocker v. United States, 125 F.3d 1475, 1476 (Fed. Cir. 1997); LeBlanc v. United States, 50 F.3d 1025, 1028 (Fed. Cir. 1995). “[T]hese clauses . . . do not trigger Tucker Act jurisdiction.” Mullenberg v. United States, 857 F.2d 770 (Fed. Cir. 1988).

Plaintiff asserts that DR 4300-6, the USDA regulation establishing the Department’s civil rights policy, is a money-mandating provision. DR 4300-6 does not contain the detailed procedures that plaintiff alleged, but merely “prescribes civil rights policy” for USDA. See USDA Dept. Reg. 4300-6 (Mar. 18, 1998). DR 4300-6 is not a money-mandating statute. See, e.g., Fisher 2005 WL at \*3. We must dismiss this cause of action for lack of subject matter jurisdiction. Id. at \*5.

Plaintiff also seeks relief under the Civil Rights Act of 1964, 42 U.S.C. § 2000d. This court has established that jurisdiction over civil rights claims lies exclusively in the district courts. Marlin v. United States, 63 Fed. Cl. 475, 476 (2005). See also Rogers v. United States, 14 Cl. Ct. 39, 50 (1987), aff’d, 861 F.2d 729 (Fed. Cir. 1988), cert. denied, 490 U.S. 1034 (1989). We do not have jurisdiction to adjudicate plaintiff’s claims stemming from purported civil rights violations.

The final issue is whether transfer to a federal district court is proper. See 28 U.S.C. § 1691 (noting that transfer is an option where “the court finds that there is a want of jurisdiction”). The decision to transfer is discretionary. LeBlanc v. United States, 50 F.3d 1025, 1041 (Fed. Cir. 1995). Where transfer is “in the interest of justice,” however, we will transfer a case to a court that may have jurisdiction to hear it. 28 U.S.C. § 1631. Federal district courts may have jurisdiction to hear plaintiff’s constitutional and civil rights claims, and her allegations of administrative due process violations. See 5 U.S.C. §§ 701-706 (proceedings under the Administrative Procedure Act are “conducted in federal district court . . . [because] the APA generally addresses ‘relief other than monetary damages’ . . . .” Beach Isles Assocs. v. United States, 58 Fed. Cl. at 657, 666 (2003) (quoting 5 U.S.C. § 702).

## CONCLUSION

Transfer of Ms. Crump-Donahue's case is in the interest of justice. Federal district courts are authorized to hear civil rights cases, Administrative Procedure Act cases, and claims based on violations of the equal protection and due process clauses of the Constitution. We do not have jurisdiction to hear such claims. The Clerk of Court will transfer the record of this case to the United States District Court for the Eastern District of Arkansas, pursuant to 28 U.S.C. § 1631.

s/ Robert H. Hodges, Jr.  
Robert H. Hodges, Jr.  
Judge