IN THE UNITED STATES COURT OF FEDERAL CLAIMS
No. 05-184-C

(Filed: July 5, 2005)

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| LAMAR C. CHAPMAN III, *pro se*, and all other such similarly situated, | ) |
| Plaintiff, | ) |
| v. | ) |
| UNITED STATES, | ) |
| Defendant. | ) |

ORDER CORRECTING ORDER ISSUED ON JUNE 30, 2005

Page one of the order issued on June 30, 2005 in this action is corrected as shown in the appended Order.

Charles F. Lettow
Judge

CORRECTED
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No. 05-184C

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| LAMAR C. CHAPMAN III, *pro se*, | ) |
| Plaintiff, | ) |
| v. | ) |
| UNITED STATES, | ) |
| Defendant. | ) |

ORDER

Plaintiff, Lamar Chapman, filed a complaint *pro se* in this court on February 2, 2005.[1] Mr. Chapman alleges that individuals acting on behalf of the United States violated his constitutional rights to due process, equal protection, and freedom from cruel and unusual punishment in contravention of the Civil Rights Act of 1964, made actionable under 42 U.S.C. §§ 1983, 1985. Compl. ¶¶ 64-69. In addition, he alleges that he was defamed and libeled by way of allegations and statements in prior proceedings in an unidentified court. *Id.* ¶¶ 70-89. On behalf of himself and all those similarly situated, *id.* ¶¶ 49-52, Mr. Chapman seeks unspecified declaratory and injunctive relief, as well as compensatory, statutory, and punitive damages in excess of $100 million. Compl. at 13. Concurrently with his complaint, Mr. Chapman filed an Emergency Motion for Temporary or Preliminary Injunction ("Emergency Mot."). In that motion, Mr. Chapman requested that a preliminary injunction issue presumably to bar the Federal Bureau of Prisons from taking Mr. Chapman into custody to serve out an allegedly unconstitutionally ordered prison sentence. Emergency Mot. ¶¶ 3, 6.

The government filed a motion to dismiss ("Def.'s Mot.") for lack of subject matter jurisdiction as well as for failure to state a claim upon which relief can be granted. Def.'s Mot. at

[1]Claims in a *pro se* case are held to less stringent pleading standards than those filed by lawyers. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972); *Ware v. United States*, 57 Fed. Cl. 782, 784 (2003). Consequently, the court has drawn all reasonable inferences in favor of Mr. Chapman and has construed his complaint as broadly as possible to see if he has set forth a valid cause of action for which this court may grant relief.

1 (citing Rules 12(b)(1) and 12(b)(6) of the Rules of the United States Court of Federal Claims ("RCFC")). Mr. Chapman initially responded by filing a "Motion Requesting Ruling." Shortly thereafter, Mr. Chapman also filed a Motion for Briefing Schedule or in the Alternative Motion for Extension of Time to Respond, and the court treated the motion as a motion for enlargement of time in which to respond to defendant's motion to dismiss and granted an extension to file a response on or before May 20, 2005. Order of April 21, 2005. Mr. Chapman failed to file a timely response, but he subsequently did file a "Second Request for Motion For Ruling." In opposing plaintiff's second motion for ruling, the government reasserted its argument that this court lacks jurisdiction over Mr. Chapman's complaint.

Upon consideration of Mr. Chapman's complaint and the various other filings, the court concludes that it lacks subject matter jurisdiction over any of the plaintiff's claims and accordingly that the case must be dismissed.

## ANALYSIS

A plaintiff bears the burden of establishing jurisdiction by a preponderance of evidence. *See McNutt v. General Motors Acceptance Corp. of Indiana*, 298 U.S. 178, 189 (1936); *Reynolds v. Army and Air Force Exchange Serv.*, 846 F.2d 746, 748 (Fed. Cir. 1988); *Ware*, 57 Fed. Cl. at 784. In assessing jurisdiction, federal courts must accept the facts alleged in the complaint as true and must draw all reasonable inferences in favor of the plaintiff. *See Henke v. United States*, 60 F.3d 795, 797 (Fed. Cir. 1995).

Mr. Chapman incorrectly asserts that this court has jurisdiction pursuant to 42 U.S.C. § 1983, and 28 U.S.C. §§ 1331 and 1367. *See* Compl. ¶ 4. It is well established that 42 U.S.C. § 1983 does not confer jurisdiction on this court. *See, e.g., Blassingame v. United States*, 33 Fed. Cl. 504, 505 ("Section 1983 is not a jurisdiction-granting statute."), *aff'd*, 73 F.3d 379 (Fed. Cir. 1995) (Table); *Montoya v. United States*, 22 Cl. Ct. 568, 571 (1991) ("[T]his court has no jurisdiction arising under 42 U.S.C. § 1983, because jurisdiction to adjudicate claims under this statute is limited to the district courts."). Mr. Chapman's jurisdictional claims under other sections of the Civil Rights Acts are similarly beyond the scope of this court's jurisdiction. *See* 28 U.S.C. § 1343; *Bunch v. United States*, 33 Fed. Cl. 337, 341 (1995) (holding that claims under the Civil Rights Acts may only be brought before federal district courts), *aff'd*, 78 F.3d 605 (Fed. Cir. 1996) (Table). Sections 1331 and 1367 of Title 28 are also unavailing to Mr. Chapman because they grant jurisdiction to the federal district courts, not this court.

Congress has waived sovereign immunity and consented to suits for monetary claims against the federal government in the Tucker Act, which provides in pertinent part:

> The United States Court of Federal Claims shall have 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). However, the Tucker Act alone is insufficient to confer jurisdiction. The plaintiff must also identify a substantive right for money damages enforceable against the United States. *See United States v. Mitchell*, 463 U.S. 206, 216-17 (1983); *United States v. Testan*, 424 U.S. 392, 398 (1976). "While the premise to a Tucker Act claim will not be 'lightly inferred,' . . . a fair inference will do." *White Mountain Apache Tribe*, 537 U.S. 465, 473 (2003). Mr. Chapman has failed to demonstrate a "fair inference" of any such substantive, "money-mandating" duty, and consequently this court's jurisdictional requirements have not been satisfied.

First, none of the constitutional amendments which Mr. Chapman cites confers a money-mandating duty. *See LeBlanc v. United States*, 50 F.3d 1025, 1028 (Fed. Cir. 1995) (holding that neither Due Process Clause nor Equal Protection Clause imposes a money-mandating duty); *Goel v. United States*, 62 Fed. Cl. 804, 808 n.4 (2004) (same); *see also Elkins v. United States*, 229 Ct. Cl. 607 (1981) ("[E]xcept for the taking clause of the fifth amendment, the other [constitutional] amendments do not require the United States to pay money for their alleged violation.").

Second, Mr. Chapman's claims for defamation and libel constitute tort claims that are beyond the jurisdiction of this court. The Tucker Act expressly provides that "[t]he United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States . . . *not sounding in tort*." 28 U.S.C. § 1491(a)(1) (emphasis added); *see also Keene Corp. v. United States*, 508 U.S. 200, 214 (1993); *Shearin v. United* States, 992 F.2d 1195, 1197 (Fed. Cir. 1993); *Dethlefs v. United States*, 60 Fed. Cl. 810, 812-13 (2004). The Federal Tort Claims Act specifies that federal district courts have juridical power to hear original tort claims against the United States. *See* 28 U.S.C. § 1346(b)(1).

Third, this court cannot consider Mr. Chapman's requests for declaratory and injunctive relief because "[t]he Tucker Act does not provide *independent* jurisdiction over . . . claims for [declaratory or injunctive] relief." *Brown v. United States*, 105 F.3d 621, 624 (Fed. Cir. 1997) (citing *United States v. King*, 395 U.S. 1, 2-3 (1969)) (emphasis added). This court has power to grant equitable relief, but that power principally arises as an accompaniment to the power to grant money judgments against the United States. *Compare Tiger Natural Gas, Inc. v. United States*, 61 Fed. Cl. 287 (2004), with *PGBA, LLC v. United States*, 389 F.3d 1219 (Fed. Cir. 2004).

Finally, this court is not the appropriate forum to hear Mr. Chapman's request that this court "[v]oid the unconstitutional orders of the Executive Committee [of an unnamed court], the unconstitutional summary judgment orders of the district court[,] and the October 22, 2004 sentence of the district court[.]" Compl. at 13. "[T]he Court of Federal Claims 'does not have jurisdiction to review the decisions of district courts.'" *Vereda Ltda. v. United States*, 271 F.3d

1367, 1375 (Fed. Cir. 2001) (quoting *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994)). Review of a district court's decision is obtainable in the court of appeals for the appropriate circuit and the United States Supreme Court, not in this court. *See Allustiarte v. United States*, 256 F.3d 1349, 1352 (Fed. Cir. 2001).

## CONCLUSION

For the foregoing reasons, the government's motion to dismiss is **GRANTED**. Plaintiff's Emergency Motion for Temporary or Preliminary Injunction is **DENIED**, and plaintiff's two motions requesting ruling are also **DENIED**. The clerk shall enter judgment accordingly. No costs.

It is so **ORDERED**.

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Charles F. Lettow
Judge