

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
No. 05-950C

(Filed: January 6, 2006)

ALBERT-LEE VICKERY,)
)
)
 Plaintiff,)
)
 v.)
)
 UNITED STATES,)
)
 Defendant.)

ORDER

This case concerns the impoundment of a vehicle and its contents by Arizona law enforcement officials. Plaintiff, Mr. Vickery, filed suit on August 30, 2005, seeking approximately \$375,000 in damages for the loss of his vehicle and its contents. The government has responded by moving for dismissal of the complaint pursuant to Rule 12(b) of the Rules of the Court of Federal Claims (“RCFC”) on the grounds that this court lacks jurisdiction over the subject matter and that plaintiff has failed to state a claim upon which relief can be granted. For the reasons stated below, the government’s motion is granted.

Mr. Vickery alleges that on January 10, 2005, he and his wife were traveling on an Arizona highway in his pickup truck when he was stopped for driving a vehicle with no rear license plate and cited for, among other violations, driving with an expired driver’s license. Compl. at 2 & Exs. 1, 8. Mr. Vickery avers that he was booked into the local county jail, his wife was taken home, and his vehicle and its contents were impounded and not returned to him. Compl. at 2.

Apart from the United States, Mr. Vickery has named as defendants the State of Arizona, a judge of an Arizona state court, two Arizona patrol officers, an Arizona county, and a towing company. These entities and persons are not proper defendants in this court. The complaint must be evaluated only insofar as it states, or fails to state, a claim against the United States.

Plaintiff bears the burden of proving that the court has jurisdiction to consider his claims. *See McNutt v. General Motors Acceptance Corp. of Ind.*, 298 U.S. 178, 189 (1936). In

determining whether jurisdiction exists, federal courts must accept as true the facts alleged in the complaint and draw all reasonable inferences in favor of the plaintiff. *See Henke v. United States*, 60 F.3d 795, 797 (Fed. Cir. 1995).¹

Mr. Vickery contends that the United States is answerable for the actions of Arizona state officials and judges because “the State of Arizona is a Political subdivision of the Incorporated entity the United States.” Compl. at 1. This assertion is unavailing. In the circumstances alleged in this case, the actions of state officials cannot be attributed to the United States. *See Shewfelt v. United States*, 104 F.3d 1333, 1337-38 (Fed. Cir. 1997). Thus, Mr. Vickery’s allegations respecting Arizona officials and entities are insufficient to state a claim cognizable in this court.

The court has examined the other allegations and averments made by Mr. Vickery and has determined that none of them state a claim within this court’s adjudicatory authority.

Therefore, the government’s motion to dismiss is GRANTED, and this case shall be dismissed for lack of jurisdiction over the subject matter and for failure to state a claim upon which relief can be granted. The clerk shall enter judgment accordingly. No costs.

It is so ORDERED.

Charles F. Lettow
Judge

¹Plaintiff has appeared *pro se* in this action. Courts hold complaints filed by persons appearing *pro se* to less rigorous standards than those applied to formal pleadings prepared by counsel. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972).