

In the United States Court of Federal Claims

No. 06-92 C
(Filed February 9, 2006)

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REGINALD POWELL, \*
Plaintiff, \*
v. \*
THE UNITED STATES, \*
Defendant. \*

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ORDER

On January 24, 2006, the Clerk’s Office received and filed the Complaint in this matter submitted by Reginald Powell.

The Complaint shows on its face that it is submitted “under the Federal Torts Claims Act.” The allegations in the Complaint set forth a tort claim involving alleged “wrongful/negligent” action by personnel of the Federal Bureau of Prisons.

Attached as exhibits to the Complaint are copies of the administrative tort claim plaintiff filed with the Bureau of Prisons and the Bureau of Prisons’ decision, dated July 21, 2005, sent by certified mail, denying his claim.

It is clear that plaintiff submitted his Complaint to the wrong court. The United States Court of Federal Claims does not have any jurisdiction to address claims submitted under the Federal Tort Claims Act. 28 U.S.C. § 1491(a); Brown v. United States, 105 F.3d 621, 623 (Fed. Cir. 1997). Congress has provided for jurisdiction over Federal Tort Claims Act cases in the United States District Courts. 28 U.S.C. § 1346(b)(1).

Ordinarily, if suit is filed in the Court of Federal Claims, when jurisdiction over the matter resides in a United States District Court, the matter can be transferred to the District Court pursuant to the authority granted by 28 U.S.C. § 1631. However, in the present matter the exhibits to the Complaint show that the Bureau of Prisons’ decision

was correctly mailed to plaintiff, in accordance with 28 C.F.R. § 14.9, on July 21, 2005. Plaintiff's Complaint, filed January 24, 2006, was not filed within the six month period after the mailing of the administrative decision as required by 28 U.S.C. § 2401(b). Failure to meet the six month requirement bars the claim. *Shoff v. United States*, 245 F.3d 1266 (11th Cir. 2001).

Accordingly, it is concluded that transfer to a district court, pursuant to 28 U.S.C. § 1631, would be a futile act and not in the interests of justice. Thus, it is **ORDERED** that this matter shall be **DISMISSED** as the court lacks jurisdiction over it. **No costs** shall be assessed and the payment of a **filing fee for this complaint shall be waived**.

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James F. Merow  
Senior Judge