

In the United States Court of Federal Claims

NOT FOR PUBLICATION
No. 05-577C
(Filed July 8, 2005)

*
STANLEY BAKER, *
*
Plaintiff, *
*
v. *
*
THE UNITED STATES, *
*
Defendant. *
*

MEMORANDUM OPINION AND ORDER

On May 26, 2005, the plaintiff Stanley Baker, proceeding *pro se*, filed the instant action. Subsequently, the plaintiff submitted additional documents which the Court charitably interpreted as an amendment to the complaint, and had them filed as such.¹ *See* Order (June 23, 2005). The amended complaint² indicates that the plaintiff may have brought this claim in bankruptcy court in the Middle District of Alabama. The plaintiff filed a very similar complaint in this Court last year; that action was dismissed on October 8, 2004, for want of jurisdiction because none of its claims had been asserted against the United States. Order, No. 04-1336C (Fed. Cl. Oct. 8, 2004). Although the amended complaint is very nearly inscrutable,³ it can be read to assert a civil fraud claim against a number of private actors. *See* Am. Compl. at 3. The plaintiff also appears to make a Rule 62 motion, seeking a stay for a new trial or judgment,

¹ In his “amendment,” the plaintiff also filed a motion to be admitted to the Bar of the United States Court of Federal Claims. The Court denied this motion.

² The Court will treat the second filing -- the amended complaint -- as having incorporated the first complaint in its entirety. Citations to “Am. Compl.” refer to this second filing.

³ Attached to the complaint are a number of opinions from the U.S. District Court for the District of Columbia. These opinions concern a Title VII action against the IRS, an APA action against the DEA, and three Freedom of Information Act actions. The Court is simply at a loss to understand how these authorities have any relevance to the complaint.

pursuant to the Rules of the United States Court of Federal Claims (“RCFC”), and a Rule 60 motion for relief from a final judgment.⁴

Compounding his vague reference to RCFC 62 and 60 is the plaintiff’s failure clearly to specify the judgment to which these motions pertain. If the motions pertain to the plaintiff’s bankruptcy proceeding in the Middle District of Alabama, then relief is inappropriate, as this Court lacks jurisdiction to review the district courts. *See Allustiarte v. United States*, 256 F.3d 1349, 1352 (Fed. Cir. 2001). If the motions pertain to the Court’s October 8, 2004 order dismissing the plaintiff’s 04-1336C complaint, then relief is still inappropriate: because the complaint was dismissed for want of jurisdiction, there is no “judgment” whose enforcement must be stayed pending the disposition of an RCFC 60 motion. Finding a lack of jurisdiction, our Court could decide nothing about his claims, other than that they did not belong in this forum. And though in theory a litigant may seek RCFC 60 relief from a decision of the court dismissing his case for want of jurisdiction, *see Stelco Holding Co. v. United States*, 45 Fed. Cl. 541, 541-42 (2000), here the plaintiff has provided absolutely no reason why such relief would be appropriate, *i.e.* no showing of mistake, newly discovered evidence, fraud, or the like. Therefore, the RCFC 62 and 60 motions shall be DENIED. And because, as demonstrated below, the Court lacks jurisdiction over the instant amended complaint, the case shall be DISMISSED.

LEGAL STANDARD

Under RCFC 12(b)(1), a complaint must be dismissed if it is shown that the Court lacks jurisdiction over the action’s subject matter. The Court may *sua sponte* dismiss the action at any time for want of jurisdiction. *See* RCFC 12(h)(3). On a motion to dismiss for want of subject matter jurisdiction, whether made by one of the parties or by the Court, all disputed questions of fact must be resolved in the light most favorable to the non-moving party. *See Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974) (when ruling on a motion to dismiss, the Court will normally accept as true all factual allegations made by the pleader and draw all reasonable inferences in a light most favorable to that party); *Pixton v. B&B Plastics, Inc.*, 291 F.3d 1324, 1326 (Fed. Cir. 2002) (on a motion to dismiss for lack of subject matter jurisdiction, the Court views “the alleged facts in the complaint as true, and if the facts reveal any reasonable basis upon which the non-movant may prevail, dismissal is inappropriate”); *Aerolineas Argentinas v. United States*, 77 F.3d 1564, 1572 (Fed. Cir. 1996).

⁴ In his amended complaint, the plaintiff cites RCFC 54(c) which, in relevant part, states: “[E]very final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in the party’s pleadings.” Presumably, by referencing this rule the plaintiff endeavors to remedy the jurisdictional defect in his 04-1336C complaint by seeking money damages. That is not sufficient; the plaintiff must assert a claim against the United States. His previous complaint failed to do that. Furthermore, RCFC 54(c) relief is available only to the *winning* party. Therefore, the plaintiff is not entitled to RCFC 54(c) relief.

ANALYSIS

Although a court must afford a *pro se* plaintiff leniency in presenting his case, *see, e.g., Castro v. United States*, 124 S. Ct. 786, 791-92 (2003); *Estelle v. Gamble*, 429 U.S. 97, 106 (1976); *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972) (per curiam), the plaintiff's *pro se* status does not exempt him from the requirement that he plead facts sufficient to state a claim within this Court's jurisdiction. The Court can divine at most four types of claims in the complaint: (1) a civil fraud action against a number of private and state defendants, Compl. at 3; (2) some type of Administrative Procedure Act ("APA") claim against the U.S. Postal Service and the Veterans Administration, *id.* at 2; (3) a motion for review of a federal district court's decision, *id.* at 3; (4) a claim of prejudice raised against certain state court judges, *id.* at 2.

Congress sets the metes and bounds for this Court's subject matter jurisdiction. The principal source of that jurisdiction is the Tucker Act, which provides in relevant 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) (2000). The plaintiff has the burden of establishing subject matter jurisdiction over his action. *See Thomson v. Gaskill*, 315 U.S. 442, 446 (1942). Because jurisdiction is an essential condition to this Court's power of adjudication, the Court has a duty to ensure before proceeding that such jurisdiction is present, even if the parties have not yet raised the issue. As the Court of Claims put it, "it is the duty of the court to determine *sua sponte* whether it has jurisdiction of any claim before it, and this may be done anytime during the pendency of the case." *Fincke v. United States*, 675 F.2d 289, 297 (Ct. Cl. 1982); *see Gen-Probe Inc. v. Vysis, Inc.*, 359 F.3d 1376, 1379 (Fed. Cir. 2004).

To establish subject matter jurisdiction in a matter not involving a contract, a plaintiff must point to a constitutional provision, statute, or regulation that would afford him money damages. *See United States v. Testan*, 424 U.S. 392, 398 (1976) (the Tucker Act "is itself only a jurisdictional statute; it does not create any substantive right enforceable against the United States for money damages"). In other words, in judicial shorthand, the plaintiff needs a money-mandating statute. *See Contreras v. United States*, 64 Fed. Cl. 583, 587-88 (2005). And the Court must bear in mind that "not every claim involving, or invoking, the Constitution necessarily confers jurisdiction on this court." *Calhoun v. United States*, 32 Fed. Cl. 400, 405 (1994).

This Court has jurisdiction over money damages claims against the United States. It has no jurisdiction over: (1) claims against the states, *see Hassan v. United States*, 41 Fed. Cl. 149, 150 (1998), or its employees, *see Vlahakis v. United States*, 215 Ct. Cl. 1018, 1018 (1978);

(2) claims against individual federal officers, *see Fla. Rock Indus. v. United States*, 791 F.2d 893, 898 (Fed. Cir. 1986); (3) claims against private parties, *see Ambase Corp. v. United States*, 61 Fed. Cl. 794, 796 (2004); (4) claims seeking review of district court judgments, *see Allustiarte v. United States*, 256 F.3d 1349, 1352 (Fed. Cir. 2001); or (5) claims founded upon the APA, *see Martinez v. United States*, 333 F.3d 1295, 1313 (Fed. Cir. 2003). Therefore, the Court lacks jurisdiction over all claims advanced in the complaint.

It also bears noting that the amended complaint raises claims substantially similar to those presented in the 04-1336C complaint, which was dismissed last October, and that the factual predicate for both complaints appears to be identical. *See* Compl. (04-1336C) at 1-3, 10-12. While here the plaintiff makes somewhat cryptic references to bankruptcy proceedings and parties thereto, in the previous case the plaintiff was much more explicit in his desire to seek some type of review over the bankruptcy proceedings. Thus it would seem, at least at first blush, that the grounds for the dismissal of the previous case would apply with equal force to the present case. Hence, one might conclude that the previous dismissal is *res judicata* for the present case on the issue of jurisdiction. *See Maracalin v. United States*, 52 Fed. Cl. 736, 740-41 (2002). This finding would further support the Court's decision that it lacks jurisdiction to hear the plaintiff's case.

The Court is not unmindful of the plaintiff's *pro se* status. A litigant prosecuting a claim *in propria persona* merits a certain degree of judicial indulgence. *See Hughes v. Rowe*, 449 U.S. 5, 9 (1980) ("however inartfully pleaded [allegations in a *pro se* complaint] are held to less stringent standards than formal pleadings drafted by lawyers") (citations omitted). But leniency has its limits. Simply because a plaintiff "acted *pro se* in the drafting of his complaint . . . does not excuse its failures, if such there be." *Henke v. United States*, 60 F.3d 795, 799 (Fed. Cir. 1995). As our Court has previously cautioned in the context of an RCFC 12(b)(6) motion, "[a]lthough plaintiff is accorded leniency in presenting his case, his *pro se* status does not render him immune from the requirement that he plead facts upon which a valid claim can rest." *Paalan v. United States*, 57 Fed. Cl. 15, 16 (2003). The Court has tried its level best to discern a cause of action within its jurisdiction in the interstices of the plaintiff's byzantine filings. There is none. As jurisdiction here is wanting, the plaintiff's case must be dismissed.

CONCLUSION

Accordingly, under RCFC 12(b)(1) and 12(h)(3), the Court *sua sponte* **DISMISSES** the plaintiff's case in its entirety for lack of subject matter jurisdiction. All other pending motions in this case are **DENIED**. The Clerk is directed to close the case.

IT IS SO ORDERED.

VICTOR J. WOLSKI
Judge