

In the United States Court of Federal Claims

NOT FOR PUBLICATION
No. 06-309C
(Filed June 29, 2006)

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*
TIMOTHEUS PATTERSON, *
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Plaintiff, *
*
v. *
*
THE UNITED STATES, *
*
Defendant. *
***** *

ORDER

The Court has reviewed defendant's motion to dismiss for lack of subject matter jurisdiction. In its June 6, 2006 Order, the Court reminded plaintiff that his opposition to the motion was due in the Clerk's office by June 15, 2006, but no such filing has been received. Nevertheless, because of plaintiff's pro se status, the Court will look beyond his nonopposition to the motion and consider the complaint on its merits. After reviewing the complaint, it is clear that the Court lacks subject matter jurisdiction. The defendant's motion to dismiss is hereby **GRANTED**.

Plaintiff filed a civil rights claim in the United States District Court for the Eastern District of Pennsylvania against a former employer for disclosing his personal information to a third party without his consent. Compl. at 9-11. Plaintiff's specific allegation was that this former employer filed a Form 1099-MISC with the IRS, displaying plaintiff's name, address, and Social Security number. *See Id.* Plaintiff sought \$700,000 in punitive damages. *Id.* at 11. The district court dismissed plaintiff's case as frivolous because the employer was required by law to disclose the information. *Patterson v. Bailey*, 06-1094 (E.D. Penn. April 12, 2006) (citing 28 U.S.C. § 1915(e) (requiring court to dismiss actions that are frivolous or malicious)). Plaintiff is attempting to sue the United States because the district court judge -- an agent of the United States -- deprived him of his right to pursue punitive damages. Compl. at 1. This Court does not have the authority to review the decisions of a district court judge. If plaintiff disagrees with the district court's ruling, he must seek review in the court of appeals, not in a separate action against the United States.

Plaintiff has the burden of establishing the Court's jurisdiction over his claim. Pro se litigants are normally afforded great leeway in presenting their claims. *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972). But this latitude does not allow the loosening of the Court's jurisdictional requirements. *Johnson v. United States*, 70 Fed. Cl. 296, 297 (Fed. Cl. 2006) (“Pro se status cannot render a plaintiff immune from jurisdictional requirements.”).

Not every alleged violation of the Constitution gives rise to a cause of action in this Court. *Calhoun v. United States*, 32 Fed. Cl. 400, 405 (1994). The Supreme Court has held that Constitutional provisions do not create a basis for money damages unless that basis “can fairly be interpreted as mandating compensation by the Federal Government for the damage sustained.” *United States v. Testan*, 424 U.S. 392, 402 (1976) (quoting *Eastport S.S. Corp v. United States*, 372 F.2d 1002, 1008 (Ct. Cl. 1967)); see also *Contreras v. United States*, 64 Fed. Cl. 583, 588-92 (2005). Plaintiff claims a violation of his First, Ninth, and Tenth Amendment rights, Compl. at 1, none of which is money mandating.

There is nothing in the text of the First Amendment to suggest that its violation requires the payment of damages. See, e.g., *Hamlet v. United States*, 63 F.3d 1097, 1107 (Fed. Cir. 1995); *Rosano v. United States*, 9 Cl. Ct. 137, 142 (1985); *Calhoun*, 32 Fed. Cl. at 404-05. Similarly, neither the Ninth Amendment's reservation of unenumerated rights to the people, or the Tenth Amendment's reservation of power to the states can reasonably be interpreted as mandating the payment of money damages. *Ogden v. United States*, 61 Fed. Cl. 44, 47 (2004). The text of the Constitution, and particularly the Bill of Rights, detail numerous rights. The Ninth Amendment stands as a reminder that the Constitution does not limit the rights of the people to those specifically mentioned in its text.¹ Similarly, the Constitution places a number of restrictions upon the power of states. But the Tenth Amendment ensures that states retain all the powers not removed from them by the Constitution.² Neither of these amendments mention anything about money damages. Thus, neither of them can support a cause of action in this Court. *Ogden*, 61 Fed. Cl. at 47.

Because the Court lacks jurisdiction over plaintiff's claim, defendant's motion to dismiss is hereby **GRANTED**. The Clerk is **DIRECTED** to close the file. No costs.

¹The Ninth Amendment states that “[t]he enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.”

²The Tenth Amendment states that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

IT IS SO ORDERED.

VICTOR J. WOLSKI
Judge