

In the United States Court of Federal Claims

No. 08-25 C
(Filed: March 5, 2008)

TERESA JANE TAYLOR, *
 *
 Plaintiff, *
 *
 v. *
 *
 THE UNITED STATES, *
 *
 Defendant. *

OPINION AND ORDER

Plaintiff, Teresa Jane Taylor, filed a pro se Complaint and application to proceed in forma pauperis in this court on January 14, 2008. On February 26, 2008, defendant filed a motion to dismiss pursuant to Rule 12(b)(1) of the Rules of the United States Court of Federal Claims (“RCFC”). The court finds that there is no need to await plaintiff’s response to defendant’s motion. For the reasons set forth below, the court grants plaintiff’s application to proceed in forma pauperis and grants defendant’s motion to dismiss.

I. BACKGROUND

In her Complaint, plaintiff alleges that, “between the years of 1985 through current day[,] her . . . rights have been violated by Federal, County, and State employees who had the duty by law to protect the plaintiffs [sic] life and well being, yet grossly, and willfully neglected their position of duty to the plaintiff . . .” Compl. ¶ 2. Plaintiff details various instances in which she allegedly was the victim of physical abuse, id. ¶¶ 5-9, and suffered “physical, medical, mental, emotional, educational, social, and financial disabilities/damages,” id. ¶ 2. Plaintiff recounts several incidents in which she was physically and sexually assaulted, denied medical care, mentally abused, and neglected. Id. ¶¶ 5-10. Plaintiff claims that the damages she incurred as a result of this conduct “could have been prevented had the individuals employed by the Federally funded State, City and County agencies followed Procedure.” Id. ¶ 5. Plaintiff seeks \$1 billion in punitive damages, criminal prosecution for all parties involved in the activities detailed in the Complaint, immunity for her parents, federal permission to seek dual citizenship in a neutral country “for both the plaintiff and all minor children,” a clearing of her records, and “all movie, book, and story rights.” Compl. Prayer for Relief.

II. APPLICATION TO PROCEED IN FORMA PAUPERIS

Plaintiff filed an application to proceed in forma pauperis together with her Complaint. Pursuant to 28 U.S.C. § 1915 (2000), courts of the United States are authorized to waive filing fees or security under certain circumstances.¹ The statute provides, in relevant part:

Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

28 U.S.C. § 1915(a)(1). Subsection (b), which addresses requirements for prisoners bringing a civil action or filing an appeal, is not applicable here.² See Pl.'s Application to Proceed In Forma Pauperis 2 (indicating that plaintiff is not a prisoner). Plaintiff states that, "because of [her] poverty, [she is] unable to pay" filing fees. Id. at 1. Upon review of her application, the court is satisfied that plaintiff meets the requirements to proceed in forma pauperis. Therefore, the court grants plaintiff's application.

III. JURISDICTION

A. Pro Se Plaintiff

The Court of Federal Claims holds pleadings of a pro se plaintiff to less stringent standards than litigants represented by counsel. Haines v. Kerner, 404 U.S. 519, 520 (1972)). Courts have "strained [their] proper role in adversary proceedings to the limit, searching . . . to

¹ While the Court of Federal Claims is not considered a "court of the United States" within the meaning of title 28 of the United States Code, the court has jurisdiction to grant or deny an application to proceed in forma pauperis. See 28 U.S.C. § 2503(d) (2000) (deeming the Court of Federal Claims to be "a court of the United States" for the purposes of section 1915); see also Matthews v. United States, 72 Fed. Cl. 274, 277-78 (2006) (recognizing that Congress enacted the Court of Federal Claims Technical and Procedural Improvements Act of 1992, authorizing, inter alia, the court to adjudicate applications to proceed in forma pauperis pursuant to section 1915).

² The court notes that section 1915(a)(1) utilizes both the terms "person" and "prisoner," 28 U.S.C. § 1915(a)(1), which "raises the issue of whether it applies to both prisoners and non-prisoners," Hayes v. United States, 71 Fed. Cl. 366, 366 (2006). This court has previously held that "the right to petition a federal court to proceed in forma pauperis applies to both prisoners and non-prisoners." Id. at 367.

see if plaintiff has a cause of action somewhere displayed.” Ruderer v. United States, 412 F.2d 1285, 1292 (Ct. Cl. 1969). Although plaintiff’s pleadings are held to a less stringent standard, such leniency “with respect to mere formalities does not relieve the burden to meet jurisdictional requirements.” Minehan v. United States, 75 Fed. Cl. 249, 253 (2007); see also Kelley v. Sec’y, U.S. Dep’t of Labor, 812 F.2d 1378, 1380 (Fed. Cir. 1987) (“[A] court may not similarly take a liberal view of that jurisdictional requirement and set a different rule for pro se litigants only.”); Bernard v. United States, 59 Fed. Cl. 497, 499, aff’d, 98 Fed. App’x 860 (Fed. Cir. 2004) (noting that pro se plaintiffs are not excused from satisfying jurisdictional requirements). As the Court of Federal Claims stated in Demes v. United States, “[w]hile a court should be receptive to pro se plaintiffs and assist them, justice is ill-served when a jurist crosses the line from finder of fact to advocate.” 52 Fed. Cl. 365, 369 (2002).

B. Standard of Review

Subject matter jurisdiction is “an inflexible matter that must be considered before proceeding to evaluate the merits of a case.” Matthews, 72 Fed. Cl. at 278. Subject matter jurisdiction may be challenged at any time by the parties, by the court *sua sponte*, or on appeal. Folden v. United States, 379 F.3d 1344, 1354 (Fed. Cir. 2004), cert. denied, 545 U.S. 1127 (2005). When considering an RCFC 12(b)(1) motion, the burden of establishing the court’s subject matter jurisdiction resides with the party seeking to invoke it. McNutt v. Gen. Motors Acceptance Corp. of Ind., 298 U.S. 178, 189 (1936). The court “consider[s] the facts alleged in the complaint to be true and correct.” Reynolds v. Army & Air Force Exch. Serv., 846 F.2d 746, 747 (Fed. Cir. 1988); see also Henke v. United States, 60 F.3d 795, 797 (Fed. Cir. 1995) (recognizing the court’s obligation to “assume all factual allegations to be true and to draw all reasonable inferences in plaintiff’s favor”).

A plaintiff bears the burden of establishing jurisdiction by a preponderance of the evidence, Reynolds, 846 F.2d at 748, and needs only set forth a prima facie showing of jurisdictional facts to survive a motion to dismiss, Raymark Indus., Inc. v. United States, 15 Cl. Ct. 334, 338 (1988). Where a defendant or the court challenges jurisdiction, “the plaintiff cannot rely merely on allegations in the complaint, but must instead bring forth relevant, competent proof to establish jurisdiction.” Murphy v. United States, 69 Fed. Cl. 593, 600 (2006). The court may consider matters outside the pleadings when examining jurisdiction. Cedars-Sinai Med. Ctr. v. Watkins, 11 F.3d 1573, 1583-84 (Fed. Cir. 1993)); see also Reynolds, 846 F.2d at 748 (“If a motion to dismiss for lack of subject matter jurisdiction . . . challenges the truth of the jurisdictional facts alleged in the complaint, the district court may consider relevant evidence in order to resolve the factual dispute.”). If the court finds that it lacks subject matter jurisdiction, then it must dismiss the claim. Matthews, 72 Fed. Cl. at 278; see also RCFC 12(h)(3) (“Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.”).

C. The Tucker Act

The Court of Federal Claims is a court of limited jurisdiction. Jentoft v. United States, 450 F.3d 1342, 1349 (Fed. Cir. 2006) (citing United States v. King, 395 U.S. 1, 3 (1969)). The scope of this court’s jurisdiction to entertain claims and grant relief depends upon the extent to which the United States has waived its sovereign immunity. King, 395 U.S. at 4. In “construing a statute waiving the sovereign immunity of the United States, great care must be taken not to expand liability beyond that which was explicitly consented to by Congress.” Fid. Constr. Co. v. United States, 700 F.2d 1379, 1387 (Fed. Cir.), cert. denied, 464 U.S. 826 (1983). A waiver of sovereign immunity “cannot be implied but must be unequivocally expressed.” King, 395 U.S. at 4. Unless Congress consents to a cause of action against the United States, “there is no jurisdiction in the Court of Claims more than in any other court to entertain suits against the United States.” United States v. Sherwood, 312 U.S. 584, 587-88 (1941).

The Tucker Act, 28 U.S.C. § 1491 (2000), confers upon the Court of Federal Claims 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.” Id. § 1491(a)(1). Although the Tucker Act waives the sovereign immunity of the United States for claims for money damages, it “itself does not create a substantive cause of action; in order to come within the jurisdictional reach and the waiver of the Tucker Act, a plaintiff must identify a separate source of substantive law that creates the right to money damages.” Greenlee County, Ariz. v. United States, 487 F.3d 871, 875 (Fed. Cir. 2007) (quoting Fisher v. United States, 402 F.3d 1167, 1172 (Fed. Cir. 2005)). The separate source of substantive law must constitute a “money-mandating constitutional provision, statute or regulation that has been violated, or an express or implied contract with the United States.” Loveladies Harbor, Inc. v. United States, 27 F.3d 1545, 1554 (Fed. Cir. 1994). “[I]n order for a claim against the United States founded on statute or regulation to be successful, the provisions relied upon must contain language which could fairly be interpreted as mandating recovery of compensation from the government.” Cummings v. United States, 17 Cl. Ct. 475, 479 (1989) (citations omitted), aff’d, 904 F.2d 45 (Fed. Cir. 1990); see also United States v. Testan, 424 U.S. 392, 398 (1976) (stating that a “grant of a right of action must be made with specificity”).

The Court of Federal Claims “may not entertain claims outside this specific jurisdictional authority.” Adams v. United States, 20 Cl. Ct. 132, 135 (1990)). As noted above, the Tucker Act expressly provides that the “United States Court of Federal Claims shall have jurisdiction . . . in cases not sounding in tort.” 28 U.S.C. § 1491(a)(1) (emphasis added); see also Shearin v. United States, 992 F.2d 1195, 1197 (Fed. Cir. 1993) (stating that it is “well settled that the United States Court of Federal Claims lacks . . . jurisdiction to entertain tort claims”); Pratt v. United States, 50 Fed. Cl. 469, 482 (2001) (providing that the court “lacks jurisdiction to award plaintiff’s prayer for damages for emotional distress and pain and suffering”). Therefore, “[t]o the extent that . . . allegations sound in tort, the Court of Federal Claims lacks jurisdiction under the Tucker Act” Alves v. United States, 133 F.3d 1454, 1459 (Fed. Cir. 1998).

IV. DISCUSSION

In her Complaint, plaintiff alleges that her rights were violated “by Federal, County, and State employees,” Compl. ¶ 2, but also claims that her damages “could have been prevented had the individuals employed by the Federally funded State, City and County agencies followed Procedure,” id. ¶ 5 (emphasis added). To that end, plaintiff specifically names State of Ohio entities such as the Allen County Sheriffs Department, the Allen County Children’s Services Agency, the Allen County Juvenile Court, and the Lima City Police as allegedly engaging in inappropriate conduct or condoning the conduct of various private individuals described throughout the Complaint. Id. ¶¶ 5-6, 9-10. The Tucker Act confers upon the Court of Federal Claims jurisdiction to “render judgment upon any claim against the United States . . .” 28 U.S.C. § 1491 (emphasis added). To the extent that plaintiff alleges claims against parties other than the United States, the court lacks jurisdiction. “When a plaintiff’s complaint names private parties, or state agencies, rather than federal agencies, this court has no jurisdiction to hear those allegations.” Shalhoub v. United States, 75 Fed. Cl. 584, 585 (2007) (citing Stephenson v. United States, 58 Fed. Cl. 186, 190 (2003)); see also United States v. Sherwood, 312 U.S. 584, 588-89 (1941) (“We think it plain that the present suit could not have been maintained in the Court of Claims because the court is without jurisdiction of any suit brought against private parties . . .”); Nat’l City Bank of Evansville v. United States, 163 F. Supp. 846, 852 (Ct. Cl. 1958) (“It is well established that the jurisdiction of this court extends only to claims against the United States, and obviously a controversy between private parties could not be entertained.” (footnotes omitted)).

Furthermore, to the extent that plaintiff’s Complaint can be construed to assert claims that the United States failed to protect plaintiff from the alleged abuse described in her Complaint, see Compl. ¶ 2 (claiming that her rights “have been violated by Federal . . . employees who had the duty by law to protect the plaintiffs [sic] life and well being”), the Court of Federal Claims lacks jurisdiction because these claims sound in tort, see 28 U.S.C. § 1491(a)(1); Shearin, 992 F.2d at 1197; see also McCauley v. United States, 38 Fed. Cl. 250, 265 (1997) (“[T]his court has no jurisdiction over allegations by plaintiff which may be characterized as based upon torts, including plaintiff’s claims of negligence and breach of duty.”), aff’d, 152 F.3d 948 (Fed. Cir. 1998). Jurisdiction to hear tort claims is exclusively granted to the United States district courts under the Federal Torts Claims Act. See 28 U.S.C. § 1346(b) (2000); Cooper v. United States, 47 Fed. Cl. 115, 117 (2000); McCauley, 38 Fed. Cl. at 264. Additionally, the court lacks jurisdiction over allegations of criminal conduct. See Joshua v. United States, 17 F.3d 378, 379 (Fed. Cir. 1994) (stating that the Court of Federal Claims “has no jurisdiction to adjudicate any claims whatsoever under the federal criminal code”). Therefore, the court lacks jurisdiction to grant plaintiff’s request for “criminal prosecution for all parties involved.” Compl. Prayer for Relief.

Assuming, arguendo, that plaintiff is asserting non-tort claims against the United States, the court lacks jurisdiction. First, although plaintiff cites the Tucker Act as conferring jurisdiction, Compl. ¶ 1, plaintiff does not base her claims 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,” 28 U.S.C. § 1491(a)(1). Rather, plaintiff merely provides an iteration of the Bill of Rights as well as the thirteenth and fourteenth amendments to the United States Constitution, see Compl. ¶ 3, cites articles 1 through 30 of the Universal Declaration of Human Rights, and references various inapposite statutory provisions, several of which supply definitions, relate to procedure, or proscribe discriminatory practices,³ see id. ¶ 4. Second, plaintiff has not identified a separate source of substantive law that creates a right to money damages. Greenlee County, Az., 487 F.3d at 875; see also Loveladies Harbor, Inc., 27 F.3d at 1554 (stating that the separate source of substantive law must constitute a “money-mandating constitutional provision, statute or regulation that has been violated, or an express or implied contract with the United States”). Instead, plaintiff seeks non-monetary relief in the form of immunity for her parents, federal permission to seek dual citizenship in a neutral country “for both the plaintiff and all minor children,” a clearing of her records, and “all movie, book, and story rights.” Compl. Prayer for Relief. Third, plaintiff’s request for \$1 billion in punitive damages falls outside the jurisdictional scope of the Court of Federal Claims. See Greene v. United States, 65 Fed. Cl. 375, 379 (2005) (“It is well-established that this Court lacks authority to grant punitive damages.”); Garner v. United States, 230 Ct. Cl. 941, 943 (1982) (“[P]unitive damages are not within the jurisdiction of this court.”).

V. CONCLUSION

Accordingly, for the reasons stated above, plaintiff’s motion to proceed in forma pauperis is **GRANTED**. Defendant’s motion to dismiss for lack of subject matter pursuant to RCFC 12(b)(1) is **GRANTED**, and plaintiff’s Complaint is **DISMISSED WITHOUT PREJUDICE**. The Clerk of the Court is directed to enter judgment in accordance with this opinion. No costs.

IT IS SO ORDERED.

MARGARET M. SWEENEY
Judge

³ Plaintiff cites the following provisions:

USC ch. 223; 3509 crimes and criminal procedures (protection of child witnesses and victims) 1787; the US Constitution, USC 3; 411 USC 15; 775, 28 USC 2680; abuse of process, 18 USC 245; court discrimination, 18 USC 242; color of law, 42 USC 14141; pattern of practice, 18 USC 241, conspiracy against rights, USC 18 213, 3283; offenses against children, Section 504 American with Disabilities Act (rehabilitation rights).

Compl. ¶ 4.