

# United States Court of Federal Claims

No: 09-35 C  
March 19, 2009  
UNPUBLISHED

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**MARIA L. PEREIRA,**

*Plaintiff,*

**v.**

**UNITED STATES OF AMERICA,**

*Defendant.*

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*Maria L. Pereira, pro se.*

*Russell A. Shultis*, Court of Federal Claims Section, Civil Division, United States Department of Justice, for defendant.

## **OPINION and ORDER**

**Block, Judge.**

### **I. INTRODUCTION**

*Pro se* plaintiff, Maria Lurdes Pereira, brings this suit claiming that Department of Justice security guards wrongly refused her access to a government building.<sup>1</sup> Compl. at 2. Because this court does not have subject matter jurisdiction over claims that most likely sound in tort, plaintiff's complaint is dismissed.

### **II. FACTUAL BACKGROUND**

The following facts are taken from plaintiff's complaint and are accepted as true for the purposes of this opinion. On January 14, 2009, plaintiff went to the "Bond Building" in Washington, D.C. to pick up a proposal letter that she had previously submitted to the Department of Justice ("DOJ"). *Id.* at 1. When plaintiff arrived at the Bond Building, a security guard would not allow her to enter the building, nor would the security guard assist the plaintiff in calling anyone for

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<sup>1</sup> Plaintiff requests to proceed *in forma pauperis*. The court grants plaintiff's request for the limited purpose of filing her complaint.

assistance. *Id.* at 1–2. Instead, the security guard threatened to call the police. *Id.* at 2. Plaintiff claims that, rather than calling the police, the security guard then called “Homeland Security Special Team Forces” to escort plaintiff off the premises. *Id.* Plaintiff claims that the incident caused her to go to the hospital. *Id.* at 3–4. On January 16, 2009, plaintiff filed the instant action against the DOJ and the Department of Homeland Security (“DHS”), seeking \$7.5 billion in damages. *Id.* at 3.

### III. DISCUSSION

The Tucker Act principally defines this court’s jurisdiction and provides, in pertinent 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) (emphasis added). Stated another way, this court “lacks jurisdiction over tort actions against the United States.” *Brown v. United States*, 105 F.3d 621, 623 (Fed. Cir. 1997).

While courts hold *pro se* plaintiffs’ pleadings to “less stringent standards than formal pleadings drafted by lawyers,” *Haines v. Kerner*, 404 U.S. 519, 520 (1972), “they are not exempt from meeting [the Tucker Act’s] jurisdictional requirements.” *Lester v. United States*, No. 08-332C, 2009 WL 416287, at \*2 (Fed. Cl. Feb. 17, 2009) (citing *Kelley v. Sec’y Dep’t of Labor*, 812 F.2d 1378, 1380 (Fed. Cir. 1987)); see *Henke v. United States*, 60 F.3d 795, 799 (Fed. Cir. 1995) (recognizing that a litigant’s “act[ing] *pro se* in the drafting of his complaint may explain its ambiguities, but it does not excuse its failures”). Thus, when a plaintiff plainly fails to assert a claim within the court’s subject matter jurisdiction, the court may directly dismiss the complaint *sua sponte*. See, e.g., *Martinez v. United States*, 281 F.3d 1376, 1380, 1384 (Fed. Cir. 2002) (affirming *sua sponte* dismissal of one count when defendant only moved to dismiss two other counts); *Sanders v. United States*, 252 F.3d 1329, 1331 (Fed. Cir. 2001) (affirming the *sua sponte* dismissal of a complaint for lack of subject matter jurisdiction).

Plaintiff’s complaint, alleging wrongdoing on the part of DOJ and DHS, most naturally reads as seeking redress for tortious behavior. See, e.g., *Croley v. Republican Nat’l Comm.*, 759 A.2d 682, 658–86 (D.C. 2000) (affirming jury verdict of assault, battery and negligence when a security guard took physical action to stop plaintiff from taking photographs in a public street); *Person v. Children’s Hosp. Nat’l Med. Ctr.*, 562 A.2d 648, 649 (D.C. 1989) (reversing summary judgment because whether an assault and battery occurred when security guards removed plaintiff from hospital involved disputed facts); see also *Black’s Law Dictionary* 126 (8th ed. 2008) (defining tortious battery as “an intentional and offensive touching of another without lawful justification”). Because plaintiff’s claim sounds in tort, plaintiff’s complaint is outside this court’s subject matter jurisdiction.

#### **IV. CONCLUSION**

Accordingly, it is **ORDERED** that plaintiff's COMPLAINT be DISMISSED. The Clerk is directed to take the necessary steps to dismiss this matter. NO COSTS.

**IT IS SO ORDERED.**

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**Lawrence J. Block**  
**Judge**