

July 26, 22

# In the United States Court of Federal Claims

No. 22-770

Filed: July 26, 2022

MATTIE T. LOMAX,

*Plaintiff,*

v.

THE UNITED STATES,

*Defendant.*

## ORDER OF DISMISSAL

Ms. Mattie Lomax, proceeding pro se, brings this claim seeking (1) a declaratory judgment regarding the validity of several documents relating to her criminal record in Florida; (2) an injunction against the state of Florida and its officers and agents; and (3) \$20,000,000 in damages plus costs of litigation. (Compl. at 5, ECF No. 1). The Court lacks jurisdiction over Ms. Lomax's claim for numerous reasons, most notably because, on its face, the Complaint presents a tort claim against the state of Florida and/or Florida officials. Additionally, although styled as a defamation claim, the claim is a collateral attack on decisions by various state and federal courts. Moreover, Ms. Lomax identifies documents from a private background investigation as the source of the alleged defamation. Finally, the Court notes that various state and federal courts label Ms. Lomax as a vexatious and frivolous litigator; this claim appears to be either ancillary to or derivative of those proceedings. As the Court will explain, for these reasons, Ms. Lomax's Complaint must be dismissed for lack of subject-matter jurisdiction pursuant to RCFC 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.").

First and foremost, Ms. Lomax styles her Complaint as an action against the state of Florida:

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In the United States Court of Federal Claims

MATTIE T. LOMAX  
 \_\_\_\_\_  
 Plaintiff,

v.

THE STATE OF FLORIDA,  
 \_\_\_\_\_  
 Defendant.

Case No. 22-770 C

Judge \_\_\_\_\_

COMPLAINT

Figure 1: Compl. at 1

The Court lacks jurisdiction over defendants other than the United States. *Lea v. United States*, 592 F. App'x 930, 5 (Fed. Cir. 2014) (“The Court of Federal Claims has jurisdiction only over claims against the United States.”); *Lawton v. United States*, 621 F. App'x 671, 3 (Fed. Cir. 2015) (“The Court of Federal Claims lacks jurisdiction over states, state officials, and state agencies.”); see also RCFC 10 (“The title of the complaint must name all the parties . . . with the United States designated as the party defendant[.]”).

To the extent Ms. Lomax's claim could be liberally construed as a claim against the United States, the Court would still lack jurisdiction. Ms. Lomax cites the Federal Tort Claims Act as the basis for her defamation claim. (Compl. at 1, 4). Ms. Lomax correctly classifies her defamation claim as an action in tort. However, the Court's jurisdiction is circumscribed by the Tucker Act, 28 U.S.C. § 1491, which precludes jurisdiction over tort claims. *Rick's Mushroom Serv., Inc. v. United States*, 521 F.3d 1338, 1343 (Fed. Cir. 2008) (“The plain language of the Tucker Act [which created Court of Federal Claims jurisdiction] excludes . . . claims sounding in tort.”). That prohibition includes claims brought under the Federal Tort Claims Act. *Crane v. United States*, 664 F. App'x 929, 5 (Fed. Cir. 2016) (“[U]nder the Federal Tort Claims Act, jurisdiction over tort claims lies exclusively in the United States district courts.”). Consequently, it is well-established that even if brought against the United States under the Federal Tort Claims Act, the Court lacks jurisdiction over Ms. Lomax's tort claims and those claims must be dismissed under RCFC 12(h)(3). *Martinez v. United States*, 391 F. App'x 876, 878 (Fed. Cir. 2010) (“Thus, it is well-established that the Court of Federal Claims does not have jurisdiction over tort claims, which include [plaintiffs'] allegations under the Federal Tort Claims Act.”).

Putting those jurisdictional defects aside, it appears from her Complaint that Ms. Lomax is attempting to pursue a defamation claim against private parties, rather than state actors. That itself would constitute an additional jurisdictional defect supporting dismissal. Ms. Lomax's Complaint cites Exhibit Nos. 25, 26, and 27 which she alleges “spread[] false and malicious rumors about [the Plaintiff] that damage her reputation.” (Compl. at 4). Those three exhibits appear to be (1) a summary of a background check produced by Sterling Talent Solutions, (Compl. Ex. 25); (2) a background check company's response to a request from Global Reach Services, Inc., (Compl. Ex. 26); and (3) documents generated by the Miami-Dade Police Department evidencing Ms. Lomax's arrest, (Compl. Ex. 27). The first two documents would only support a claim against the private parties who made the statement. As it has already explained, this Court only has jurisdiction over claims against the United States, not private parties. *United States v. Sherwood*, 312 U.S. 584, 588 (1941) (the Court of Federal Claims “is without jurisdiction of any suit brought against private parties[.]”).

Moreover, the truth of the substance of the police report and arrest record, (Compl. Ex. 27), was adjudicated by bench trial in Florida state court. (Compl. Ex. 11 (Order Denying Motion for Rehearing)). Ms. Lomax was convicted on misdemeanor charges stemming from the allegations in the police report and arrest record. (*Id.*). She now seeks relief from this Court that includes a declaration that the police report and arrest record are “invalid, null, and void[.]” (Compl. at 5). Such a claim, styled in tort as a defamation claim, is an inappropriate attempt to collaterally attack a criminal conviction with a civil suit. *See Heck v. Humphrey*, 512 U.S. 477, 486 (1994) (“[C]ivil tort actions are not appropriate vehicles for challenging the validity of outstanding criminal judgments[.]”). Furthermore, “[a] criminal conviction is conclusive proof and operates as collateral estoppel in a subsequent civil action for the facts supporting the

conviction.” *Emich Motors v. General Motors Corp.*, 340 U.S. 558, 559–60 (1951). Thus, in addition to being a tort claim against private parties that is outside this Court’s jurisdiction, Ms. Lomax’s claim is also a collateral attack on a state court decision which this Court lacks jurisdiction to entertain. *Mercer v. United States*, 668 F. App’x 362, 363 (Fed. Cir. 2016) (the Court of Federal Claims “lacks jurisdiction to consider claims which amount to ‘collateral attacks’ on criminal convictions.”). Therefore, even if properly styled as a claim against the United States that did not sound in tort, the Court would lack jurisdiction because Ms. Lomax seeks relief against private parties and attempts to collaterally attack her criminal conviction in state court.

Apropos of the jurisdictional defects in Ms. Lomax’s claim, the Court, like its colleagues on the state and federal benches in Florida, finds Ms. Lomax to be a frivolous and vexatious litigant. (See Compl. Ex. 6 (state court order declaring Ms. Lomax a “vexatious litigant” under Florida law)); *Mattie T. Lomax v. Harvey Ruvin, et al.*, Case No. 09-cv-23293 (S.D. Fla. Jan. 23, 2020) (ordering that, after numerous “frivolous and vexatious” filings, the Clerk of Court was to reject further filings from Ms. Lomax absent defined circumstances) (attached hereto as Exhibit 1). In addition to filings related to her Florida criminal conviction, Ms. Lomax has pestered other federal courts with frivolous filings. See, e.g., *Lomax v. Mun. of the City of Miami Fla. et al.*, Case No. 10-cv-23540 (S.D. Fla. Oct. 19, 2010) (finding that Ms. Lomax had filed sixteen lawsuits in the Southern District of Florida in the preceding two years and dismissing her case as frivolous); *Lomax v. St. of Fla.*, Case No. 11-cv-23720 (S.D. Fla. Oct. 17, 2011) (dismissed as frivolous for lack of an “arguable basis in law or fact” while noting Ms. Lomax’s “repeated re-filing of the same claim as an act designed to harass her adversaries.”); *Lomax v. Lynch et al.*, Case No. 11-cv-23797 (S.D. Fla. Apr. 10, 2012) (dismissed as frivolous and sanctions imposed requiring plaintiff to make disclosures regarding the status of other actions filed *in forma pauperis*); *Lomax v. Ruvin et al.*, Case No. 09-cv-23293 (S.D. Fla. Nov. 2, 2009) (dismissed as frivolous and sanctions imposed).

Based on a review of Ms. Lomax’s Complaint and other actions dismissed by other federal courts, the Court finds that the Complaint shows indicia of frivolousness and harassment as it has no arguable basis in law or fact. See *Hemphill v. Kimberly-Clark Corp.*, 374 Fed. App’x 41 (Fed. Cir. May 4, 2010); *In re Powell*, 851 F.2d 427 (D.C. Cir. 1988). These indicia include both the number of case filings and the “effect of those filings” on the federal court system. *Id.* at 433. Similar additional filings may result in the entry of an anti-filing order in this Court. Additionally, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this decision would not be taken in good faith.

In summary, the Court **ORDERS** the following:

- (1) Pursuant to RCFC 12(h)(3), Ms. Lomax's Complaint is **DISMISSED** for lack of subject matter jurisdiction.
- (2) The Court **CERTIFIES**, pursuant to 28 U.S.C. § 1915 (a)(3), that any appeal from this decision would not be taken in good faith.

**IT IS SO ORDERED.**



*David A. Tapp*  
DAVID A. TAPP, Judge

May 17, 23

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**MATTIE T. LOMAX**  
*Plaintiff-Appellant*

v.

**UNITED STATES,**  
*Defendant-Appellee*

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2022-2138

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Appeal from the United States Court of Federal Claims  
in No. 1:22-cv-00770-DAT, Judge David A. Tapp.

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**ON MOTION**

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PER CURIAM.

**ORDER**

Mattie T. Lomax appeals from the judgment of the United States Court of Federal Claims dismissing her complaint for lack of jurisdiction. Before the court are Ms. Lomax's opposed motion for entry of default judgment and the government's opposed motion for summary affirmance. We grant the government's motion and affirm.

Ms. Lomax filed the underlying complaint at the Court of Federal Claims naming the State of Florida as the defendant. Her complaint sought a declaration that certain documents relating to her criminal record in Florida were invalid; an injunction against the state of Florida and its officers and agents; and \$20,000,000 in damages plus litigation costs. The Court of Federal Claims dismissed for lack of jurisdiction and certified under 28 U.S.C. § 1915(a)(3) that an appeal would not be in good faith.

Summary affirmance is appropriate here because the merits of the parties' positions are so clear "that no substantial question regarding the outcome of the appeal exists," *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994). The Court of Federal Claims is a federal court of limited jurisdiction. 28 U.S.C. § 1491. Relevant here, it may only review monetary claims against the United States. *United States v. Sherwood*, 312 U.S. 584, 588 (1941) (holding that the Court of Federal Claims' "jurisdiction is confined to the rendition of money judgments in suits brought for that relief against the United States"). Thus, the Court of Federal Claims was clearly correct in holding that it lacked jurisdiction over this case.

We have considered Ms. Lomax's arguments in her informal opening brief and her response to the motion for summary affirmance and do not find them persuasive. The Court of Federal Claims clearly lacks jurisdiction over claims for damages under § 1983. *Shelden v. United States*, 742 F. App'x 496, 501-02 (Fed. Cir. 2018); cf. *Cannon v. Univ. of Chi.*, 441 U.S. 677, 701 n.27 (1979) ("[Section] 1983 is assuredly not available for suits against the United States[.]"). The Court of Federal Claims was clearly correct that it lacked jurisdiction over Ms. Lomax's collateral attacks on decisions of state and federal courts with respect to criminal matters, *Jones v. United States*, 440 F. App'x 916, 918 (Fed. Cir. 2011) (collecting cases), or to review decisions by district courts or courts of appeals generally, see *Boise Cascade Corp. v. United States*, 296 F.3d

June 09, 23

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**MATTIE T. LOMAX**  
*Plaintiff-Appellant*

v.

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2022-2138

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Appeal from the United States Court of Federal Claims  
in No. 1:22-cv-00770-DAT, Judge David A. Tapp.

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**ON PETITION FOR PANEL REHEARING**

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PER CURIAM.

**ORDER**

Mattie T. Lomax filed a petition for panel rehearing  
[ECF No. 21].<sup>1</sup>

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<sup>1</sup> The court, by order issued May 24, 2023, construed Appellant's Opposition to Motion for Summary Affirmance

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LOMAX v. US

Upon consideration thereof,

IT IS ORDERED THAT:

The petition for panel rehearing is denied.

FOR THE COURT

June 9, 2023

Date

/s/ Jarrett B. Perlow

Jarrett B. Perlow  
Acting Clerk of Court

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and Cross Motion for Summary Reversal [ECF No. 21] as a  
petition for panel rehearing.



**Additional material  
from this filing is  
available in the  
Clerk's Office.**