

FILED

JAN 10 2020

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**Clerk, U.S. District and
Bankruptcy Courts**

Ricardo Jose Calderon Lopez,

Plaintiff,

v.

United States of America,

Defendant.

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Civil Action No. 19-3542 (UNA)

MEMORANDUM OPINION

This matter is before the Court on its initial review of plaintiff's *pro se* complaint and application for leave to proceed *in forma pauperis*. The Court will grant the application and dismiss the complaint for lack of subject matter jurisdiction. *See* Fed. R. Civ. P. 12(h)(3) (requiring the court to dismiss an action "at any time" it determines that subject matter jurisdiction is wanting).

"Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute," and it is "presumed that a cause lies outside this limited jurisdiction." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (citations omitted). Under the doctrine of sovereign immunity, the United States may be sued only upon consent, which must be clear and unequivocal. *United States v. Mitchell*, 445 U.S. 535, 538 (1980) (citation omitted). A waiver of sovereign immunity "must be unequivocally expressed in statutory text, and [it cannot] be implied." *Lane v. Pena*, 518 U.S. 187, 192 (1996) (citations omitted). A party seeking relief in the district court must at least plead facts that bring the suit within the court's jurisdiction. *See* Fed. R. Civ. P. 8(a). Failure to plead such facts warrants dismissal of the action.

Plaintiff has sued the United States under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2671-80. *See* Compl. Caption. He seeks "100,000.00 as a result of the agency personnel § 2671(1), on-going program discrimination." Compl. at 7. The agency personnel appear to be employees of the Social Security Administration, which is a defendant in plaintiff's pending case brought under the Social Security Act, 42 U.S.C. § 405(g). *Calderon-Lopez v. Berryhill*, No. 19-cv-1851-KBG-GMH. The instant complaint is largely incomprehensible, but it too refers to the Social Security Administration and mentions "multiple due process violations-termination of benefits from its personnel[.]" Compl. at 3. The FTCA waives the United States' immunity under certain circumstances, but not for torts predicated on constitutional violations. *Fed. Deposit Ins. Corp. v. Meyer*, 510 U.S. 471, 478 (1994). The Social Security Act, moreover, expressly forbids an "action against the United States, the Commissioner of Social Security, or any officer or employee thereof" under the FTCA. 42 U.S.C. § 405(h). Consequently, this case will be dismissed for want of jurisdiction. A separate order accompanies this Memorandum Opinion.

Date: January 8, 2020


United States District Judge