

ORIGINAL

In the United States Court of Federal Claims

PETER TREADWAY,
Plaintiff,
v.
THE UNITED STATES,
Defendant.

FILED

JUN 18 2018

U.S. COURT OF FEDERAL CLAIMS

No. 18-93C

Filed: June 18, 2018

DISMISSAL ORDER

Plaintiff, pro se, Peter Treadway, commenced this action on January 18, 2018 (docket entry nos. 1). On February 6, 2018, plaintiff filed a motion to substitute West Chester, Pennsylvania as defendant (docket entry no. 6). On March 19, 2018, the government filed a motion to dismiss this matter for lack of subject-matter jurisdiction and for failure to state a claim upon which relief can be granted, pursuant to Rules 12(b)(1) and (6) of the Rules of the United States Court of Federal Claims ("RCFC") (docket entry no. 11).

On April 19, 2018, the government filed a notice advising the Court that plaintiff's service copy of the government's motion to dismiss had been returned due to an error in plaintiff's address, and moved for an extension of time for plaintiff to respond commensurate with the date that would have been set if the United States had made its filing on April 19, 2018 (docket entry no. 12). On April 26, 2018, the Court granted the government's motion, and directed plaintiff to respond to the government's motion to dismiss by May 17, 2018 (docket entry no. 13).

After plaintiff failed to submit a timely response to the government's motion to dismiss, the Court issued a Show Cause Order on May 22, 2018, instructing plaintiff to show cause as to why he did not timely respond to the government's motion to dismiss and to provide a response to the government's motion to dismiss by June 12, 2018 (docket entry no. 14). In the Show Cause Order, the Court informed plaintiff that, should he fail to respond to the government's motion to dismiss by June 12, 2018, the Court would treat plaintiff's failure to respond as a

failure to comply with a Court Order and to prosecute this matter, pursuant to RCFC 41(b). Plaintiff has failed to file a response to the government's motion to dismiss, and to comply with the Court's May 22, 2018, Show Cause Order. RCFC 41(b).

Plaintiff has also moved to proceed in this matter *in forma pauperis* and he has submitted an application for leave to proceed in this matter *in forma pauperis* and statements regarding his assets and liabilities, the nature of this action, and that he is unable to prepay the costs of this action because of his poverty (docket entry no. 4). Plaintiff has not, however, submitted a copy of his trust fund account statement.

In view of the foregoing, the Court:

1. **DENIES** plaintiff's motion to proceed *in forma pauperis*;
2. **DENIES** as moot plaintiff's motion to substitute; and
3. **DISMISSES** the complaint without prejudice, pursuant to RCFC 41(b).

The Clerk's Office is directed to **ENTER** final judgment consistent with this Order.

No costs.

IT IS SO ORDERED.


LYDIA KAY GRIGGSBY
Judge