NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

ERNEST R. ELLIS,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellee

2026-1814

Appeal from the United States Court of Federal Claims in No. 1:25-cv-01468-EGB, Senior Judge Eric G. Bruggink.

Decided: November 3, 2026

ERNEST R. ELLIS, SR., Cambridge, OH, pro se.

REBECCA TAYLOR MITCHELL, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, DC, for defendant-appellee. Also represented by WILLIAM JAMES GRIMALDI, PATRICIA M. MCCARTHY, BRETT SHUMATE.

Before MOORE, *Chief Judge*, PROST and TARANTO, *Circuit Judges*.

PER CURIAM.

Ernest R. Ellis appeals the United States Court of Federal Claims dismissal of his complaint for lack of jurisdiction. For the following reasons, we *affirm*.

BACKGROUND

Mr. Ellis enlisted in the United States Navy and began active-duty service in August 1974. S. Appx. 50.[1] In February 1975, he was admitted to a Navy psychiatric facility and diagnosed with adjustment disorder and passive-aggressive personality disorder. *Id.* Mr. Ellis then had two periods of unauthorized absences: (1) from March 3, 1975 to March 29, 1975, and (2) from April 2, 1974 to July 16, 1975—both for which he was convicted by a summary court-martial. *Id.* In August 1975, Mr. Ellis was discharged from the Navy by reason of unsuitability with a general, under honorable conditions, characterization of service and an RE-4 reentry code indicating his ineligibility to reenlist. *Id.*

After his discharge, Mr. Ellis petitioned the Board for Correction of Naval Records (Board) for physical disability benefits, which the Board denied. *See* S. Appx. 68. Over the next few decades, Mr. Ellis filed numerous lawsuits for claims relating to his discharge in the United States Court of Claims (the predecessor court to the Court of Federal Claims), the Court of Federal Claims, and multiple other courts—all to no avail. *See, e.g.*, *Ellis v. United States*, 1 Cl. Ct. 141, 142 (Ct. Cl. 1983); *Ellis v. United States*, 21 F. App'x 927, 928 (Fed. Cir. 2001) (summarily affirming another Court of Federal Claims judgment); *Ellis v. U.S. Navy*, 825 F.2d 406 (4th Cir. 1987) (unpublished table decision); *Ellis v. Bd. for Correction of Naval Recs.*, 991 F.2d 794 (6th Cir. 1993) (unpublished table decision); *see also*

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[1] "S. Appx." refers to the Supplemental Appendix attached to Appellee's Brief.

S. Appx. 1–2 ("This is at least the fifteenth time plaintiff has sought judicial relief on his separation.").

The present appeal arises from a 2018 request Mr. Ellis filed with the Board asking for reconsideration of his previously denied application for correction of his military records. S. Appx. 50. The Board denied the request in a 2019 decision, *id.* at 50–52, which Mr. Ellis then challenged in a 2023 complaint filed in the U.S. District Court for the Southern District of Ohio. S. Appx. 2. That court transferred Mr. Ellis' case to the Court of Federal Claims, which in turn accepted a September 30, 2025 filing by Mr. Ellis as his amended complaint. *Id.*; S. Appx. 22–43 (amended complaint).

In his amended complaint, Mr. Ellis alleges (1) he was improperly discharged; (2) the United States concealed information about a head injury he suffered in February 1975; (3) he was not assigned the attorney he requested before the summary court-martial; (4) he was falsely imprisoned by the Navy; and (5) he was subject to medical malpractice conducted by Navy medical staff. *Id.* at 25–26, 28–29, 35, 37–38. As relief, Mr. Ellis requests review of the Board's 2019 decision; a change in his discharge status to "Honorable Medical Discharge at the rate of 100% disability"; expungement of his two periods of unauthorized absence; a change in his reenlistment code from RE-4 to RE-3P (indicating he is eligible for reenlistment except for a disqualifying factor, *see* S. Appx. 2); and at least $20 million. S. Appx. 24–25, 29, 34–35, 37–38, 40.

The Court of Federal Claims dismissed all of Mr. Ellis' claims for lack of jurisdiction. S. Appx. 3–5. Mr. Ellis appeals. We have jurisdiction under 28 U.S.C. § 1295(a)(3).

DISCUSSION

We review a Court of Federal Claims decision to dismiss for lack of jurisdiction de novo. *Diaz v. United States*,

853 F.3d 1355, 1357 (Fed. Cir. 2017). Here, we see no error in the court's dismissal of Mr. Ellis' claims.

First, the Court of Federal Claims concluded it lacks jurisdiction over Mr. Ellis' medical malpractice and false imprisonment claims because they sound in tort. S. Appx. 4. We agree. *See, e.g.*, *Utley v. United States*, 813 F. App'x 601, 603 (Fed. Cir. 2020) ("Medical malpractice and negligence are claims sounding in tort over which the Court of Federal Claims lacks jurisdiction." (citing *Rick's Mushroom Serv., Inc. v. United States*, 521 F.3d 1338, 1343 (Fed. Cir. 2008))); *Jackson v. United States*, 612 F. App'x 997, 998 (Fed. Cir. 2015) ("Because a claim of false imprisonment sounds in tort, it falls outside the [Court of Federal Claims'] jurisdictional reach."). Because the Tucker Act does not grant the Court of Federal Claims jurisdiction over such claims, dismissal was proper. *See* 28 U.S.C. § 1491(a)(1) (granting the court jurisdiction only over claims "*not* sounding in tort" (emphasis added)).

Second, to the extent Mr. Ellis' amended complaint alleges his constitutional due process rights were violated by the failure to be assigned his preferred defense counsel, the Court of Federal Claims concluded it lacks jurisdiction because the Due Process clauses of the Fifth and Fourteenth Amendments do not provide "a sufficient basis for jurisdiction because they do not mandate payment of money by the government." S. Appx. 4 (citing *LeBlanc v. United States*, 50 F.3d 1025, 1028 (Fed. Cir. 1995)). We again agree and discern no compelling argument in Mr. Ellis' appellate briefing that *LeBlanc* is distinguishable or was wrongly decided.

Third, the Court of Federal Claims considered Mr. Ellis' claims for improper discharge, medical disability retirement, and correction of records, and concluded they are time-barred. S. Appx. 4–5. Under 28 U.S.C. § 2501, "[e]very claim of which the . . . Court of Federal Claims has jurisdiction shall be barred unless the petition thereon is

filed within six years after such claim first accrues." 28 U.S.C. § 2501. And as the court correctly explained, in a military discharge case, the plaintiff's cause of action for back pay accrues "at the time of the plaintiff's discharge." S. Appx. 4 (quoting *Martinez v. United States*, 333 F.3d 1295, 1303 (Fed. Cir. 2003) (en banc)). Mr. Ellis' improper discharge claim (and his associated request for correction of records) thus became time-barred in August 1981, six years after his August 1975 discharge. As for Mr. Ellis' medical disability retirement claim, the Court of Federal Claims correctly explained that such a claim generally "accrues when the service member seeks and is denied benefits from a board competent to grant such benefits." *Id.* at 5 (citing *Chambers v. United States*, 417 F.3d 1218, 1224 (Fed. Cir. 2005)). Mr. Ellis' disability retirement claim accordingly became time-barred in December 1988, six years after the Board first denied his petition in 1982. *Id.* Because Mr. Ellis did not file his original complaint until 2023, we agree with the Court of Federal Claims that it lacks jurisdiction over these claims.

While Mr. Ellis argues his claims should not be time-barred due to the Navy's concealment of information relating to his alleged head injury, *see, e.g.*, Dkt. No. 1 at 28, we agree with the Court of Federal Claims that this is unpersuasive. S. Appx. 5. To achieve a suspension of claim accrual for purposes of 28 U.S.C. § 2501, a plaintiff "must either show that the defendant has concealed its acts with the result that plaintiff was unaware of their existence or it must show that its injury was 'inherently unknowable' at the accrual date." *Young v. United States*, 529 F.3d 1380, 1384 (Fed. Cir. 2008) (citation omitted). Here, however, Mr. Ellis knew about the Board's 1982 denial of his petition, brought numerous legal challenges relating to his discharge in the following decades, and specifically provided a declaration from his wife, S. Appx. 44–47, indicating that he was aware of and spoke to his wife about his

alleged head injury being a reason for his unauthorized absences as early as 1975. Mr. Ellis, therefore, had sufficient awareness to pursue claims based on his alleged head injury for decades, and he is time-barred from doing so now.

Finally, Mr. Ellis raises new arguments on appeal, but none compels a different outcome. For example, he argues the United States violated his First Amendment right to petition. *See* Appellant's Br. 4. But the First Amendment, standing alone, is not money-mandating. *United States v. Connolly*, 716 F.2d 882, 887 (Fed. Cir. 1983). And while Mr. Ellis argues in his reply brief, that the United States failed to timely respond to his opening brief, *see* Reply Br. 2, we have explained in a prior order that Mr. Ellis' argument is premised on his miscalculation of the due date for the United States' response brief, which was timely filed, *see* Dkt No. 14.

For the foregoing reasons, we conclude the Court of Federal Claims lacks jurisdiction over all of Mr. Ellis' claims and did not err in dismissing his complaint.

CONCLUSION

We have considered Mr. Ellis' remaining arguments and find them unpersuasive. Accordingly, we *affirm*.

AFFIRMED

COSTS

No costs.