

DOCKET NO.: U04W-CR21-0495162-S SUPERIOR COURT JD/GA
400 GRAND ST
WATERBURY, CT 06702

STATE OF CONNECTICUT

V.

SEAN PAUL REYES

2022 MAR 30 A 11:02

SUPERIOR COURT

JUDICIAL DISTRICT OF
WATERBURY

AT WATERBURY

MARCH 30, 2022

MEMORANDUM RE: MOTION TO DISMISS

The defendant, Sean Paul Reyes (the “Defendant”), was arrested for videotaping the interior of the Waterbury Post Office located at 135 Grand Street, Waterbury, Connecticut (the “Post Office”). The Post Office sits on land owned by the United States, not the State of Connecticut. The Defendant was charged with criminal trespass in the first degree in violation of General Statutes § 53a-107. The Defendant moves to dismiss this matter because, *inter alia*, the Superior Court lacks concurrent jurisdiction over it. The Defendant claims that the federal courts have exclusive jurisdiction over it. For the reasons discussed below, the state has failed to meet its burden of proving that the Superior Court has concurrent jurisdiction to prosecute this matter. Accordingly, this case is dismissed.

FACTUAL BACKGROUND

The Defendant was arrested at the Post Office on May 19, 2021 by the Waterbury Police Department. According to the case/incident report dated May 19, 2021, he approached the clerk’s office at the Post Office, reached his hand under the protective glass, and started using his cellphone to videotape the interior of the office. He gave no

other reason for being at the Post Office. When the clerk asked him to stop videotaping and leave the premises, he declared that he was “exercising his first amendment rights.” After asking three times, the police were called. The Defendant again explained to the police that he was “exercising his first amendment rights” and that “he has a right to record” per the instructions posted at the Post Office:

Photographs for news, advertising or commercial purposes: Photographs for news purposes may be taken in entrances, lobbies, foyers, corridors or auditoriums when used for public meetings except where prohibited by official signs or security force personnel or authorized personnel or a federal court order. Other photographs may be taken only with permission of the local Postmaster or Installation head.

The Defendant claimed that he was a member of a news agency, but when police asked for his news credentials, he argued that such a question was unconstitutional, and declined to produce any credentials.¹ After the police asked the Defendant to leave the premises, and he refused, he was arrested for criminal trespass in the first degree in violation of General Statutes § 53a-107.

The Defendant filed his Motion to Dismiss dated July 21, 2021. The state filed an Objection dated August 27, 2021. Given the lack of detail in the Defendant’s motion, the court suggested to the self-represented party that he file a supporting memorandum prior to the hearing date, which was scheduled for December 8, 2021. One day prior to the hearing date, the Defendant filed his Memorandum in Support of Defendant’s Motion to Dismiss dated December 7, 2021. The court heard oral argument on December 8, 2021. Since the state had no opportunity to draft a response to Defendant’s memorandum, the

¹ Even if proper credentials were produced, the state maintains that videotaping the interior of the Post Office is prohibited.

court gave it until January 11, 2022, to file a responsive pleading. By email dated January 12, 2022, the state informed the court that it would not be filing a responsive pleading. However, a few days after the deadline, the state received a letter dated January 14, 2022, from the United State Postal Inspection Service (the “Post Office Letter”), which it subsequently forwarded to the court. The Post Office Letter states:

In this case, the Postal Service facility located at 135 Grant Street [i.e., the subject Post Office] was originally built in or about 1930 under the predecessor Post Office Department which appears to have taken possession of the land in 1903. . . Where property has been held by the United States under a grant of exclusive jurisdiction and no action has been taken by the United States to retrocede the jurisdiction to the state, the [Post Office] . . . remains an exclusive Federal enclave.

STANDARD

“A motion to dismiss ... properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court ... A motion to dismiss tests, *inter alia*, whether, on the face of the record, the court is without jurisdiction.” (Internal quotation marks omitted.) *Beecher v. Mohegan Tribe of Indians of Connecticut*, 282 Conn. 130, 134, 918 A.2d 880 (2007). “[T]he plaintiff bears the burden of proving subject matter jurisdiction, whenever and however raised. (Internal quotation marks omitted.) *Fort Trumbull Conservancy, LLC v. New London*, 265 Conn. 423, 430 n. 12, 829 A.2d 801 (2003). “The burden rests with the party who seeks the exercise of jurisdiction in his favor ... clearly to allege facts demonstrating that he is a proper party to invoke judicial resolution of the dispute.” (Internal quotation marks omitted.) *Goodyear v. Discala*, 269 Conn. 507, 511, 849 A.2d 791 (2004). “[I]n determining whether a court has subject matter jurisdiction, every

presumption favoring jurisdiction should be indulged.” (Internal quotations marks omitted.) *Connor v. Statewide Grievance Committee*, 260 Conn. 435, 443, 797 A.2d 1081 (2002).

“[I]n ruling on a motion to dismiss, the trial court must take the facts to be those alleged in the complaint, including those facts necessarily implied from the allegations, construing them in a manner most favorable to the pleader.” (Internal quotation marks omitted.) *Fort Trumbull Conservancy, LLC v. New London*, supra, 265 Conn. 432-33. “The motion to dismiss ... admits all facts which are well pleaded, invokes the existing record and must be decided upon that alone.” (Internal quotation marks omitted.) *Cogswell v. American Transit Ins. Co.*, 282 Conn. 505, 516, 923 A.2d 638 (2007). In the present case, the Defendant has moved to dismiss this matter under Practice Book §§ 41-8 (4), (5) and (8) arguing that: 1) the court lacks jurisdiction; 2) there is insufficient evidence; and 3) the prosecution of this case is unconstitutional.

ARGUMENT

The United States and Connecticut courts possess **concurrent jurisdiction** over criminal matters, unless **exclusive jurisdiction** has been legally given to a particular court. *State v. Carroll*, 97 Conn. 598, 600, 117 A. 694 (1922). “To give federal courts exclusive jurisdiction . . . Congress must, in an exercise of its powers under the Supremacy Clause,² affirmatively divest state courts of their presumptive concurrent

² Article VI, cl. 2 of the United States constitution provides in relevant part: “This Constitution, and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.”

jurisdiction.” (Footnote added.) *Yellow Freight Systems v. Donnelly*, 494 U.S. 820, 823, 110 S. Ct. 1566, 108 L. Ed. 2d 834 (1990). To this end, the United States Constitution provides the means by which the United States may “affirmatively divest state courts of their presumptive concurrent jurisdiction” – and assert exclusive jurisdiction over land purchased within a state: “Congress shall have the power . . . [t]o exercise exclusive jurisdiction over any lands acquired by the United States “for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings [i.e. post offices].” U.S. Const., art. I, s 8, cl. 17.³

Two prerequisites must be satisfied before the vesting of exclusive jurisdiction over such lands: 1) the state in which the lands are located must consent to relinquish its presumed concurrent jurisdiction, **and** 2) the United States must accept such exclusive jurisdiction. *Silas Mason Co. v. Tax Commission*, 302 U.S. 186, 197, 58 S. Ct. 233, 82 L. Ed. 187 (1937); *Dupuis v. Submarine Base Credit Union, Inc.*, 170 Conn. 344, 347-48, 365 A.2d 1093 (1976). Absent both prongs being satisfied, concurrent jurisdiction is retained by the state.

As for prong one, Connecticut has consented to the acquisition of land by the United States for the above-named purposes (namely post offices) and has ceded exclusive jurisdiction over such lands to the United States. General Statutes § 48-1.⁴ As

³ Article I, § 8 of the United States constitution provides in relevant part: “The Congress shall have power to . . . (17) To exercise exclusive legislation in all cases whatsoever . . . over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings . . .”; see also *James v. Dravo Contracting Co.*, 302 U.S. 134, 141, 58 S. Ct. 208, 82 L. Ed. 155 (1937) (explaining “exclusive legislation” means “exclusive jurisdiction”).

⁴ Pursuant to General Statutes § 48-1: “The consent of the state of Connecticut is given . . . to the acquisition by the United States, by purchase, condemnation or otherwise, of any land in this state

for the second prong, “[f]or lands purchased *prior to* February 1, 1940, the United States is presumed to have accepted [exclusive] jurisdiction.” (Emphasis added.) *State ex rel. Laughlin v. Bowersox*, 318 S.W.3d 695, 698 n.2 (Mo. 2010); *accord State v. Allard*, 313 A.2d 439, 446 (Me. 1973). “[F]or all lands acquired by the United States [*after*] February 1, 1940, Congress has required that a federal official file with the governor of the state in which the lands are located a notice of acceptance of jurisdiction, either exclusive or partial, over the lands, and, in the absence of such a notice [of acceptance], it shall be conclusively presumed that no such jurisdiction has been accepted”; (internal quotation marks omitted) *Dupuis v. Submarine Base Credit Union, Inc.*, 170 Conn. 344, 348-49 (1976), quoting 40 U.S.C. § 255 (now § 3112 [c]); and, therefore, Connecticut and the United States would possess **concurrent jurisdiction**.

In the present case, there is no dispute that prong one is satisfied. Indeed, pursuant to General Statutes § 48-1, Connecticut has consented to the acquisition of the Post Office by the United States and has ceded exclusive jurisdiction over such lands to the United States. Accordingly, this case comes down to prong two and whether the United States has properly accepted exclusive jurisdiction over the Post Office. To answer this question, we must know when the Post Office was purchased by the United States. If it was purchased before February 1, 1940, exclusive jurisdiction is presumed – the state has no concurrent jurisdiction – and the case is dismissed. If it was purchased after February 1, 1940, concurrent jurisdiction is presumed absent the filing of a “notice of acceptance” by the United States over it.

required for customhouses, courthouses, *post offices*, arsenals or other public buildings or for any other purposes of the government. Exclusive jurisdiction in and over any land so acquired by the United States is ceded to the United States for all purposes. . .” (Emphasis added).

At the hearings on this matter, neither party submitted documentation regarding the purchase date or of the “notice of acceptance.” The only facts presently before the court regarding the purchase date derive from the Post Office Letter, where the United States acknowledges that it took “possession” of the Post Office land in 1903 and constructed the Post Office “in or about 1930.” Accordingly, this court finds that the Post Office was purchased prior to February 1, 1940. Thus, the federal courts possess exclusive jurisdiction over all criminal prosecutions occurring at the Post Office, like the present matter.

Since both prongs of the exclusive jurisdiction analysis are satisfied, the court finds that the state has failed to meet its burden. Accordingly, this case is dismissed for lack of jurisdiction.⁵

BY THE COURT

Hon. Joseph B. Schwartz - Juris No. 439612

⁵ The Defendant filed its Motion for Return of Seized Property dated May 25, 2021, in which he requests the return of his “cell phone and go pro camera.” Since the case is dismissed, those items should be returned to their rightful owner.