

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION
AT ASHLAND**

Civil Action 18-68-HRW

WADE POE,

PLAINTIFF,

v.

ORDER

UNITED STATES OF AMERICA,

DEFENDANT.

Wade Poe (“Poe”) is currently incarcerated at the Federal Correctional Institution (“FCI”) – Seagoville in Seagoville, Texas. Poe filed this civil action, *pro se*, pursuant to the Federal Tort Claims Act (“FTCA”), alleging medical malpractice. [Docket No. 1].

After a preliminary review per 28 U.S.C. §§ 1915(e)(2), 1915A, the Court ordered that the United States Marshal Service (USMS) serve the United States with a copy of the complaint and a summons. [Docket No. 6].

Thereafter, the United States moved to dismiss Poe’s complaint, or alternatively, moved for summary judgment. [Docket No. 14]. The Court overruled the motion, finding it premature as neither party had been afforded the opportunity to conduct discovery. [Docket No. 18]. The Court also found that Poe’s claims were not actually claims of medical malpractice, but instead claims of negligence against staff at Poe’s prison facility, while under their medical care. *Id.*

This matter was referred to Magistrate Judge Edward B. Atkins for all pretrial proceedings, including the considering of dispositive motions. *Id.*

The United States, again, moved for summary judgment [Docket No. 37]. Poe responded, thrice. [Docket Nos. 43, 44, & 46]. The United States filed a reply. [Docket No. 45].

Judge Atkins recommends that United States' motion be granted, and that Poe's claims be dismissed with prejudice. [Docket No. 48].

Poe has filed objections. Poe devotes most of his objection to reiterating arguments presented to, and rejected by, the Magistrate. The Court having reviewed the objections, as well as the record, finds nothing therein which would contradict or call into question the detailed findings of the Magistrate. Thus, the Court shall adopt the report and recommendation as and for its own opinion.

Accordingly, **IT IS HEREBY ORDERED** that the Magistrate Judge's report and recommendation [Docket No. 49] is hereby, **APPROVED and ADOPTED** as for the opinion of the Court.

IT IS FURTHER ORDERED that the United States' Motion for Summary Judgment [Docket No. 37] be **SUSTAINED** and that this matter be **DISMISSED WITH PREJUDICE**.

This 24th day of August 2020.



Signed By:

Henry R Wilhoit Jr.

A handwritten signature in black ink, appearing to read "H. Wilhoit Jr.", written over the printed name.

United States District Judge