

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
SOUTHERN DIVISION at PIKEVILLE

DWAUNE J. GRAVLEY, SR.,	)	
	)	
Plaintiff,	)	Civil Action No. 7:08-CV-53-KKC
	)	
v.	)	
	)	
FEDERAL BUREAU OF PRISONS, ET AL.,	)	<b>MEMORANDUM OPINION</b>
	)	<b>AND ORDER</b>
Defendants.	)	

\*\*\*\*\*

On September 18, 2009, the Defendants filed a Motion to Dismiss or, in the Alternative, for Summary Judgment. [Record No. 21] On September 22, 2009, the Court entered an Order directing the Plaintiff to file a response to the motion within 30 days, and cautioned the Plaintiff that failure to file a timely response was grounds for granting the motion. [Record No. 22]. More than 30 days have passed, and the Plaintiff has not responded in any way. Accordingly, the Court conclusively presumes that Plaintiff has waived any opposition to the motion, *Resnick v. Patton*, 2007 WL 4532815, \*\*1 n.1 (6th Cir. 2007), and it will therefore be granted.

Accordingly, **IT IS ORDERED** that:

1. Defendant’s Motion to Dismiss, or in the alternative, for Summary Judgment [Record No. 21] is **GRANTED**.
2. Plaintiff’s claims under the Federal Tort Claims Act, 28 U.S.C. § 2671, are **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.

3. Plaintiff's claims under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) relating to his medical care and placement in administrative segregation are **DISMISSED WITHOUT PREJUDICE**.

4. The Court will enter an appropriate Judgment.

Entered on November 9, 2009.



**Signed By:**

**Karen K. Caldwell** *KKC*

**United States District Judge**