

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

LARRY J. RAY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 2:12cv158-WHA
)	
UNITED STATES OF AMERICA,)	(wo)
)	
Defendant.)	

ORDER

This case is before the court on a Motion for Reconsideration (Doc. #35).

The Plaintiff asks the court to reconsider the grant of summary judgment in favor of the United States on the grounds that his claim as pled was intended to include all post-operative conduct, and that opinions offered by Dr. Wright were based on the failure of the Defendant to produce all medical records.

Even if the Complaint could be fairly read to include the claim the Plaintiff now contends should be read in the Complaint, even though it was not pled in the Complaint or Administrative Claim, as discussed in the court’s earlier Memorandum Opinion and Order, the Plaintiff has not presented sufficient evidence by a similarly situated health care provider of a breach of the standard of care as to either the claim actually pled in his Complaint and Administrative Claim, or as to a claim he now contends should be read in the Complaint. Therefore, the Motion to Reconsider is due to be and is hereby ORDERED DENIED.

Done this 12th day of March, 2013.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE