

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

ORLANDO HOBBS,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:14-cv-00401-SLB-JEO
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on June 18, 2015, recommending that the defendant’s motion for summary judgment on the plaintiff’s Federal Tort Claims Act (“FTCA”) claims be granted and this cause be dismissed with prejudice. (Doc. 39). The plaintiff filed objections on July 10, 2015. (Doc. 42).

In his objections, the plaintiff merely reasserts his claims that medical providers negligently treated his back condition. (*Id.*) The plaintiff again argues that the court should have required Dr. Holbrook, Dr. O’Malley, and Dr. Robinson to serve as his expert witnesses. (Doc. 42 at 2, 4). However, Dr. Holbrook and Dr. Robinson submitted sworn declarations in which they state the plaintiff’s medical treatment was within the appropriate standard of care. (Doc. 12-3 at 6, Holbrook Decl. at ¶ 14; Doc. 12-4 at 3, Robinson Decl. at ¶ 5). These doctors cannot be directed to provide testimony contrary to their sworn declarations to benefit the

plaintiff. Neither has the plaintiff pointed to any authority directing the court to provide for or compel an expert to testify on his behalf. Because the plaintiff has not come forward with expert testimony to establish the applicable standard of care and how the care he received breached that standard, his FTCA claims necessarily fail. *See Cobb v. Fisher*, 20 So. 3d 1253, 1257-58 (Ala. 2009).

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections filed by the plaintiff, the court is of the opinion that the magistrate judge's report is due to be and is hereby **ADOPTED** and his recommendation is **ACCEPTED**. The court **EXPRESSLY FINDS** that there are no genuine issues of material fact and that the defendant is entitled to judgment as a matter of law. Accordingly, the defendant's motion for summary judgment is due to be **GRANTED** and this action is due to be **DISMISSED WITH PREJUDICE**. A Final Judgment will be entered.

DATED this the 4th day of August, 2015.



SHARON LOVELACE BLACKBURN
SENIOR UNITED STATES DISTRICT JUDGE