

denied.

However, the Court finds it would be futile to reinstate this case because the Court did not have jurisdiction over the matter when it was filed. Pursuant to 28 U.S.C. § 2675(a), an action cannot be instituted upon a claim against the United States for money damages “unless the claimant shall have first presented the claim to the appropriate Federal agency” and the claim was denied or six months has passed since the claim was filed and the agency has failed to make a final disposition the claim.

In other words, a claimant suing the United States under the FTCA must have 1) sought redress with the appropriate government agency and 2) either have been a) denied redress by that agency or b) waited a period of six months without a final decision from that agency.

Harp v. UAB Hosp., 2012 WL 2358154, at *3 (N.D. Ala. June 20, 2012).

“Noncompliance with section 2675 deprives a federal court jurisdiction over his or her claim.” *Id.* (quoting *Adams v. United States*, 615 F.2d 284, 290 (5th Cir.1980)). The “existence of federal jurisdiction ordinarily depends on the facts as they exist when the complaint is filed.” *Ashworth v. Burns*, 2009 WL 3242094, at *1 (S.D. Ala. Oct. 7, 2009) (citations omitted). Thus, even though the six-months has now run, because this Court did not have jurisdiction when the case was filed, reinstating the matter will be to no avail. *See Gregory v. Mitchell*, 634 F.2d 199, 204 (5th Cir. 1981) (finding that although the six-month time period required by § 2675 had passed, the action must be dismissed because at the time the complaint was filed the required time period had not expired and jurisdiction must exist at the time the complaint is filed).

Accordingly, Plaintiff's motion for relief from judgment or order (Doc. 13), is
DENIED.

DONE and **ORDERED** this 15th day of May, 2018.

/s/ Callie V. S. Granade
SENIOR UNITED STATES DISTRICT JUDGE