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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Donald M. Kelly,

No. CV 11-8125-PCT-FJM

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Plaintiff,

ORDER

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vs.

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United States of America,

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Defendant.

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We have before us defendant's motion to dismiss (doc. 5), to which no response was filed. Plaintiff filed this action in the Prescott Justice Court on June 23, 2011 against Martha Mashlonik, his supervisor at the United States Department of Veterans Affairs. The United States removed this action on August 12, 2011 and was substituted as defendant on August 15, 2011. Defendant now seeks to dismiss pursuant to Rule 12(b)(1), Fed. R. Civ. P., for lack of subject matter jurisdiction.

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Because plaintiff did not respond to defendant's motion to dismiss, we grant it summarily. LRCiv 7.2(i) (permitting non-compliance with briefing requirements to be deemed consent to the granting of a motion).

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Accordingly, **IT IS HEREBY ORDERED GRANTING** defendant's motion to dismiss (doc. 5).

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DATED this 5th day of October, 2011.

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Frederick J. Martone

Frederick J. Martone
United States District Judge

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