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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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Tony Nixon,

No. CV-15-00247-TUC-JGZ

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Plaintiff,

ORDER

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v.

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Tyler D. Francis, et al.,

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Defendants.

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Pending before the Court is a Report and Recommendation issued by United States Magistrate Judge Charles R. Pyle that recommends granting Defendant United States of America's Motion to Dismiss.¹ (Doc. 4.) As thoroughly explained by Magistrate Judge Pyle, Plaintiff has failed to exhaust his claims under the Federal Tort Claims Act (FTCA), and Plaintiff's remaining claims against Defendant Decker are barred by the doctrine of prosecutorial immunity. No objection to the Report and Recommendation was filed by Plaintiff.²

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¹ Defendant United States of America was substituted in place of Defendant Brian Decker, who is an Assistant United States Attorney. (Doc. 3.)

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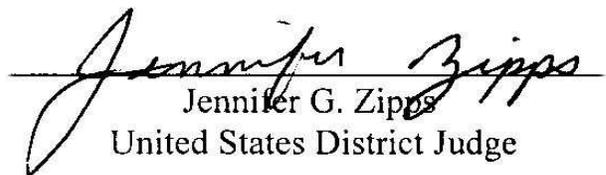
² On February 23, 2016, shortly after Magistrate Judge Pyle issued his Report and Recommendation, Plaintiff filed a motion requesting a hearing and for clarification with regards to the status conference held by Magistrate Judge Pyle on February 11, 2016. (Doc. 53.) In his Motion, Plaintiff asserts that the "Claim Form 95," which he claims he submitted to the Border Patrol and to the "District Attorney Administration," is "acceptable" because it was filed within the correct time frame and with the appropriate administration. (*Id.* at 1-2.) Plaintiff does not provide any additional facts to support these arguments. Plaintiff similarly does not indicate which fact contained in the Report and Recommendation is incorrect, but rather states in conclusory fashion that his 2014 claim was timely. To the extent Plaintiff intends the arguments in his motion for hearing to be

1 The Court has reviewed the record and concludes that Magistrate Judge Pyle's
2 recommendations are not clearly erroneous. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P.
3 72; *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999); *see also Conley*
4 *v. Crabtree*, 14 F.Supp.2d 1203, 1204 (D. Or. 1998).

5 Accordingly, IT IS HEREBY ORDERED as follows:

- 6 1. The Report and Recommendation (Doc. 52) is accepted and adopted;
- 7 2. Defendant United States of America's Motion to Dismiss (doc. 4) is
8 GRANTED. Defendant United States of America, substituted for Defendant
9 Brian Decker, is dismissed from the action.

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11 Dated this 2nd day of March, 2016.

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15 Jennifer G. Zipp
16 United States District Judge
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26 construed as an objection to the findings of the Magistrate Judge, that objection fails, as
27 the Court can discern no difference between the facts described by Plaintiff and those
28 found by Magistrate Judge Pyle in his Report and Recommendation. (*See* doc. 52, p. 6.)
Plaintiff also filed a Motion to Amend on February 23, 2016, in which Plaintiff again
asserts that he filed paperwork with Border Patrol regarding "administrative remedies" in
April or June of 2014. (Doc. 53.) The Court notes that in an attached affidavit, Plaintiff
states that the 2014 paperwork was regarding the seizure of his vehicle, which is
consistent with the findings of Magistrate Judge Pyle. (*See* doc. 52, p. 6; doc. 53, ex. A.).