

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
EASTERN DIVISION**

EVERETT T. PEONE

PLAINTIFF

v.

2:12-cv-00083-KGB-JJV

USA; *et al.*

DEFENDANTS

**ORDER**

Plaintiff, a Bureau of Prisons (BOP) inmate, filed a *pro se* Complaint (Doc. No. 2) that was construed as being pursuant to *Bivens v. Six Unknown Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).<sup>1</sup> On October 25, 2012, the Court directed issuance of summons and service of the Complaint on Defendants Matos, Outlaw, Weitzmen, and Shaw. (Doc. No. 12.) Summons were returned unexecuted for Defendants Outlaw, Weitzmen, and Shaw. (Doc. Nos. 13, 14, 18.) Plaintiff then provided another address for these Defendants, and the Court directed reissuance of summons and service of the Complaint on Defendants Outlaw, Weitzmen, and Shaw. (Doc. No. 20.)

Defendant United States of America has filed a Motion for Reconsideration of Order Granting Plaintiff's Motion for Service and Brief in Support. (Doc. Nos. 33, 34). The United States points out that the Complaint was actually filed pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2671 *et seq.*, and the United States of America is the only proper party in this action. For good cause shown,

IT IS, THEREFORE, ORDERED that:

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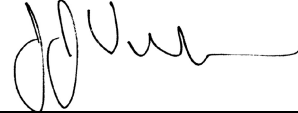
<sup>1</sup>In *Bivens v. Six Unknown Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), the Court held that victims of constitutional violations by federal agents have a right to recover damages against them in federal court, just as 42 U.S.C. § 1983 provides redress for constitutional violations by state officials. *See also Hartman v. Moore*, 547 U.S. 250, 255 n.2 (2006) (explaining that "a *Bivens* action is the federal analog to suits brought against state officials under . . . 42 U.S.C. § 1983").

1. The Motion for Reconsideration (Doc. No. 33) is GRANTED.
2. The Clerk shall reclassify this case as filed pursuant to the Federal Tort Claims Act,

28 U.S.C. § 2671 *et seq.*

3. Service of Defendants Matos, Outlaw, Weitzmen, and Shaw is set aside.

Dated this 7th day of January, 2013.



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JOE J. VOLPE  
UNITED STATES MAGISTRATE JUDGE