

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

**VIVEK SHAH,
Reg. # 43205-424**

PLAINTIFF

v.

Case No. 2:15-cv-00004 KGB-JJV

**MICHELLE WINGO, Physician's
Assistant, FCC-Forrest City Low, et al.**

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommendations submitted by United States Magistrate Judge Joe J. Volpe (Dkt. No. 33) and plaintiff Vivek Shah's objections (Dkt. No. 44). The Court notes that, after Judge Volpe entered the Proposed Findings and Recommendations, Mr. Shah filed a motion for leave to file a second amended complaint (Dkt. No. 37). Judge Volpe denied the motion but extended the time in which Mr. Shah had to file objections to the Proposed Findings and Recommendations, thereby permitting Mr. Shah to include in his objections relevant information supporting his argument that he should be permitted to file a second amended complaint (Dkt. No. 40). After carefully considering the Proposed Findings and Recommendations and Mr. Shah's objections and making a *de novo* review of the record, the Court concludes that the Proposed Findings and Recommendations should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects.

It is therefore ordered that:

1. Mr. Vivek may proceed with his inadequate medical care claims against defendants Michelle Wingo, Summer Birkhead, and the United States of America (*via* the Federal Tort Claims Act).

2. The Court declines to exercise supplemental jurisdiction over Mr. Shah's state law claims and dismisses those claims without prejudice. Should he choose to do so, Mr. Shah may pursue these claims in Arkansas state court.

3. The Court dismisses all other claims without prejudice for failure to state a claim upon which relief may be granted.

4. Although the Court has carefully considered Mr. Shah's arguments, the Court adopts Judge Volpe's decision to deny Mr. Shah's motion for leave to file a second amended complaint for the reasons stated in his Order (Dkt. No. 40).

5. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

SO ORDERED this the 18th day of May, 2015.



Kristine G. Baker
United States District Judge