

**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 three Proposed Findings and Partial Recommended Dispositions ("Recommendations") submitted by United States Magistrate Judge Joe J. Volpe (Dkt. Nos. 85, 89, 93). No objections have been filed to any of the Recommendations, and the time to file objections has passed. After careful review, the Court concludes that the 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. Defendants' motion for partial summary judgment is granted (Dkt. No. 80).
2. Plaintiff Vivek Shah's claims against defendant Summer Birkhead are dismissed without prejudice due to Mr. Shah's failure to exhaust administrative remedies against Ms. Birkhead.
3. Mr. Shah's Federal Torts Claims Act claims against defendant United States of America are dismissed as follows:
 - A. Mr. Shah's claims submitted on October 15, 2014 (TRT-SCR-2015-00222), January 8, 2015 (no number available), and July 29, 2014 (TRT-SCR-2015-02567) are dismissed without prejudice.

B. Mr. Shah's claim arising on December 13, 2014 (TRT-SCR-2015-01377) is dismissed with prejudice as barred by *res judicata*.

4. Defendant Michelle Wingo's motion for partial summary judgment is granted (Dkt. No. 90).

5. Mr. Shah's claims against Ms. Wingo are dismissed with prejudice.

6. 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 12th day of September, 2016.



Kristine G. Baker
United States District Judge