

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

MARVIN O COBB,  
Reg #09419-076

PLAINTIFF

v.

No. 2:15-cv-153-DPM

USA

DEFENDANT

ORDER

On *de novo* review, the Court adopts Magistrate Judge Deere's recommendation, *No* 62, as supplemented. FED. R. CIV. P. 72(b)(3). Arkansas law requires expert testimony for this kind of medical negligence claim. And no compelling circumstances justify an appointment of an expert in this case. *Rueben v. United States*, 2014 WL 5460574 (E.D. Ark. 2014).

In his Objection, Cobb says his amended complaint didn't raise an FTCA claim at all. He says that prison staff was deliberately indifferent to his medical needs. *No* 65. Assuming his amended complaint states an Eighth Amendment claim, *No* 26, it fails as a matter of law. *Laswell v. Brown*, 683 F.2d 261, 267-69 (8th Cir. 1982). Cobb can't sue the United States absent a waiver of immunity.

Defendant's motion for summary judgment, *No* 52, is granted. The case will be dismissed with prejudice.

So Ordered.

DP Marshall Jr.  
D.P. Marshall Jr.  
United States District Judge

4 May 2017