

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

LAZARO DESPAIGNE BORRERO,  
Reg #12973-074

PLAINTIFF

v.

No. 2:16-cv-61-DPM

UNITED STATES OF AMERICA

DEFENDANT

ORDER

The Court overrules Borrero's objections, *No. 67*, and, on *de novo* review, adopts Magistrate Judge Volpe's recommendation, *No. 66*, as supplemented. FED. R. CIV. P. 72(b)(3). This Court lacks FTCA jurisdiction over Borrero's hernia-related claim because he didn't raise it in his administrative claim. *McNeil v. United States*, 508 U.S. 106, 113 (1993). Borrero does not present the compelling circumstances required by law for appointment of a medical expert to assist in his case. *Rueben v. United States*, 2014 WL 5460574 (E.D. Ark. 2014). And Borrero's understandable frustration with the delays in, and course of, his medical care is insufficient to create disputed material fact issues on whether the United States acted negligently.

The United States' motion for summary judgment, *No. 53*, is granted. Borrero's motions for partial summary judgment, *No. 41 & 48*, are denied.

Borrero's motion to strike, No 69, is denied as moot. The complaint will be dismissed with prejudice.

So Ordered.

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

8 May 2017