

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

ANTHONY DAVILA,

Plaintiff,

v.

LOGAN MARSHALL, Sheriff, and
FNU DURDEN, Captain,

Defendants.

CIVIL ACTION NO.: CV112-149

ORDER

After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Plaintiff attempts to set forth a claim against the United States of America pursuant to the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2671, *et seq.* The purpose of the FTCA is to "provide redress for ordinary torts recognized by state law." Stone v. United States, 373 F.3d 1129, 1130 (11th Cir. 2004) (quoting Ochran v. United States, 273 F.3d 1315, 1317 (11th Cir. 2001)). The FTCA is a limited waiver of sovereign immunity rendering the federal government liable to the same extent as a private party. United States v. Orleans, 425 U.S. 807, 813 (1976).

Contrary to Plaintiff's assertions, his sanctioned claims—i.e., those claims for which the Magistrate Judge ordered service—against Defendants do not sound in tort under state law. Rather, Plaintiff's claims are that Defendants infringed upon his right to exercise his religion, denied him equal protection, and that Defendants' actions violated

the Religious Land Use and Institutionalized Persons Act of 2000 ("PLUIPA"), 42 U.S.C. § 2000cc-1, *et seq.* In addition, the United States Marshals Service contracts with McDuffie County Detention Center to house federal pretrial detainees, which Plaintiff is. This does not equate with Defendants being employed by the federal government so that the United States of America could be responsible for Defendants' actions.

Plaintiff's Objections are overruled. The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. Plaintiff's claims against Defendants Marshal and Durden in their official capacities are **DISMISSED**.

SO ORDERED, this 12th day of February, 2013.



HONORABLE J. RANDAL HALL
UNITED STATES DISTRICT JUDGE