

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

YOUREE HALL, # 36495-044,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 13-539-GPM
)	
UNITED STATES of AMERICA,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

MURPHY, District Judge:

Plaintiff, currently incarcerated at the Butner Federal Medical Center in Butner, North Carolina (“Butner”), brings this *pro se* action under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 1346(b); § 2671 *et seq.* Plaintiff’s claim arose on July 31, 2012, while he was incarcerated at FCI-Greenville, Illinois (“Greenville”) (Doc. 1, p. 2). He filed an administrative tort claim, which was denied on March 16, 2013. *Id.*

Specifically, Plaintiff contends that the government is liable under the FTCA for personal injuries he sustained after he suffered a seizure and convulsions in a prison dayroom. Correctional officers on duty forcibly restrained him so he could be transported to Health Care. Plaintiff contends their actions were contrary to the standard of care for a person suffering convulsions. As a result, both Plaintiff’s shoulders were dislocated, he suffered a fracture of his right humeral head, and now has permanent loss of mobility despite having corrective surgery (Doc. 1, p. 3).

Plaintiff organizes his complaint into three counts. The first alleges that the Greenville correctional officers breached their duty of care to him (Doc. 1, p. 3). Secondly, the medical

staff person who responded to the emergency failed in his/her duty to warn the officers that they should not have forcibly restrained Plaintiff (Doc. 1, p. 5). Finally, the Bureau of Prisons failed to properly train their correctional staff in the appropriate first aid techniques for treating a person suffering convulsions (Doc. 1, p. 6).

Merits Review Pursuant to 28 U.S.C. § 1915A

Under § 1915A, the Court is required to conduct a prompt threshold review of the complaint, and to dismiss any claims that are frivolous, malicious, fail to state a claim on which relief may be granted, or seek monetary relief from an immune defendant. Accepting Plaintiff's allegations as true, the Court finds that Plaintiff has articulated a colorable federal cause of action under the Federal Tort Claims Act, which shall receive further review.

Disposition

The Clerk of Court is **DIRECTED** to complete, on Plaintiff's behalf, a summons for service of process on the United States; the Clerk shall issue the completed summons. Pursuant to Federal Rule of Civil Procedure 4(i), the Clerk shall (1) personally deliver to or send by registered or certified mail addressed to the civil-process clerk at the office of the United States Attorney for the Southern District of Illinois a copy of the summons, the complaint, and this Memorandum and Order; and (2) send by registered or certified mail to the Attorney General of the United States at Washington, D.C., a copy of the summons, the complaint, and this Memorandum and Order.

Plaintiff shall serve upon the United States Attorney for the Southern District of Illinois, a copy of every pleading or other document submitted for consideration by the Court. Plaintiff shall include with the original paper to be filed a certificate stating the date on which a true and correct copy of the document was served on the U.S. Attorney. Any paper received by a district

judge or magistrate judge that has not been filed with the Clerk or that fails to include a certificate of service will be disregarded by the Court.

Defendant is **ORDERED** to timely file an appropriate responsive pleading to the complaint and shall not waive filing a reply pursuant to 42 U.S.C. § 1997e(g).

Pursuant to Local Rule 72.1(a)(2), this action is **REFERRED** to United States Magistrate Judge **Donald G. Wilkerson** for further pre-trial proceedings.

Further, this entire matter shall be **REFERRED** to United States Magistrate Judge Wilkerson for disposition, pursuant to Local Rule 72.2(b)(2) and 28 U.S.C. § 636(c), *if all parties consent to such a referral.*

If judgment is rendered against Plaintiff, and the judgment includes the payment of costs under § 1915, Plaintiff will be required to pay the full amount of the costs, notwithstanding that his application to proceed *in forma pauperis* has been granted. *See* 28 U.S.C. § 1915(f)(2)(A).

Plaintiff is **ADVISED** that at the time application was made under 28 U.S.C. § 1915 for leave to commence this civil action without being required to prepay fees and costs or give security for the same, the applicant and his or her attorney were deemed to have entered into a stipulation that the recovery, if any, secured in the action shall be paid to the Clerk of the Court, who shall pay therefrom all unpaid costs taxed against plaintiff and remit the balance to plaintiff. Local Rule 3.1(c)(1).

Finally, Plaintiff is **ADVISED** that he is under a continuing obligation to keep the Clerk of Court and each opposing party informed of any change in his address; the Court will not independently investigate his whereabouts. This shall be done in writing and not later than **7 days** after a transfer or other change in address occurs. Failure to comply with this order will cause a delay in the transmission of court documents and may result in dismissal of this action

for want of prosecution. *See* FED. R. CIV. P. 41(b).

IT IS SO ORDERED.

DATED: August 22, 2013

s/ *G. Patrick Murphy*
G. PATRICK MURPHY
United States District Judge