

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

BENJAMIN BARRY KRAMER,)
)
 Plaintiff,)
)
 v.) Case No. 3:15-cv-420-JPG
)
 UNITED STATES OF AMERICA,)
)
 Defendant.)

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff Benjamin Barry Kramer’s motion to extend the deadline to file dispositive motions regarding Count 11, the only remaining claim in this case (Doc. 94). In Count 11, Kramer asserts a violation of the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 1346(b)(1), based on the alleged wrongful seizure by the United States of assets worth more than the \$60 million criminal judgment against Kramer. The Court established a dispositive motion deadline of August 31, 2020, for this claim (Doc. 92), and the United States timely filed a motion for summary judgment asserting that the Court must dismiss Count 11 because Kramer did not exhaust his administrative remedies before filing his FTCA claim.

In the meantime, the Court set a hearing in Kramer’s criminal case, No. 98-cr-40070-JPG, to receive an accounting of the sums seized from Kramer to determine whether the United States has over-collected the monetary judgment against Kramer. In Kramer’s pending motion in this case, Kramer seeks an extension of the dispositive motion deadline until after the hearing in his criminal case. He believes he will uncover evidence in that proceeding which will be relevant to this case.

The Court **DENIES** the motion **without prejudice** (Doc. 94). The only question presently in issue in this case is whether Kramer exhausted his administrative remedies before filing his FTCA cause of action. It is unlikely that evidence relevant to this question will be used in the accounting hearing. Should Kramer's FTCA claim survive the motion for summary judgment on the issue of exhaustion, the Court would be amenable to a renewed motion for an extension of time to file dispositive motions.

IT IS SO ORDERED.

DATED: September 21, 2020

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE