

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

ALBERT MCKAY, JR.

VERSUS

UNITED STATES OF AMERICA, ET AL.

CIVIL ACTION

NO. 15-1496

SECTION "L" (4)

ORDER & REASONS

Before the Court is the United States' Motion to Dismiss Federal Employee and Federal Agency. R. Doc. 21. After reviewing the United States' memoranda, the record, and the applicable law, the Court **GRANTS** the United States' motion.

The Court finds the United States' motion unopposed. The motion is set for submission on Wednesday, January 20, 2016. Pursuant to Local Rule 7.5, McKay's Opposition was due on January 12, 2016. The present motion is therefore unchallenged.

More importantly, the Court finds that the Court lacks subject matter jurisdiction due to the Federal Torts Claims Act ("FTCA"). The FTCA provides that a suit against the United States shall be the exclusive remedy for persons with claims for damages resulting from the actions of federal employees taken within the scope of their employment. 28 U.S.C. § 2679(b)(1). The FTCA further provides that any other statute authorizing a federal agency to sue and be sued in its own name does not authorize an action against the agency that is cognizable under the tort-claims provision. § 2679(a). Instead, a suit against the United States is the exclusive remedy for tort claims arising from the actions of government agencies. *Id.*; *see also Galvin v. Occupational Safety & Health Admin.*, 860 F.2d 181, 180 (5th Cir. 1988) ("It is beyond dispute that the United States, and not the responsible agency or employee, is the proper party defendant in a Federal Tort Claims Act suit."). McKay attempts to assert a claim against

Turner, a federal employee, and the USPS, a federal agency. These parties must be dismissed pursuant to the FTCA. Therefore,

IT IS ORDERED that the United States' Motion to Dismiss Federal Employee and Federal Agency is **GRANTED**.

New Orleans, Louisiana, this 20th day of January, 2016.


UNITED STATES DISTRICT JUDGE

Cc:
Albert McKay, Jr.
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