

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

PATRICIA MARIE DAVIS,)	
)	
Plaintiff,)	
)	
v.)	No. 4:13CV2217 TCM
)	
DEPARTMENT OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

The Court ordered plaintiff to show cause why this action should not be dismissed, and plaintiff has filed her response. After careful review, the Court finds that this action must be dismissed for lack of jurisdiction.

Plaintiff brings this case pursuant to the Federal Torts Claim Act, 28 U.S.C. §§ 2671-2680 (the “FTCA”). Plaintiff alleges that a doctor working at a federally supported health care facility negligently prescribed her an overdose of blood pressure medication, which gave her an arrhythmia and raised her blood pressure. Plaintiff maintains that her FTCA claim was denied by the agency on March 20, 2013. She filed the instant complaint on October 30, 2013.

Under 28 U.S.C. § 2401(b), a “tort claim against the United States shall be forever barred unless . . . [a civil] action is begun within six months after the date of

mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented.” A “plaintiff’s compliance with the statute of limitations is prerequisite to the district court’s jurisdiction over a suit against the United States under the FTCA.” T.L. v. United States, 443 F.3d 956, 961 (8th Cir. 2006).

The limitations period expired on September 20, 2013. In her response memorandum, plaintiff does not make any allegation that she did not receive timely notice of the agency’s final disposition of her tort claim. As a result, the Court lacks the authority to hear this action, and this case must be dismissed for want of jurisdiction under Rule 12(h)(3) of the Federal Rules of Civil Procedure.

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED**.

IT IS FURTHER ORDERED that plaintiff’s motion for appointment of counsel is **DENIED** as moot.

A separate Order of Dismissal will be filed forthwith.

Dated this 20th day of November, 2013.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE