

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

REGINALD MCNEARY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:14CV2007 HEA
	)	
UNITED STATES MARSHAL SERVICE,	)	
	)	
Defendant.	)	

**OPINION, MEMORANDUM AND ORDER**

Plaintiff sues the United States Marshals Service for alleged medical neglect by officials at St. Louis County Justice Center and St. Charles County Corrections. The case is dismissed for lack of jurisdiction. Fed. R. Civ. P. 12(h)(3).

Plaintiff alleges that from October 2013 through April 2014 he was subjected to medical negligence by jail officials. He says he sent letters to the Marshals Service that were not answered. Plaintiff does not state the basis for the Court's jurisdiction. He seeks monetary relief.

To sue a federal agency for negligence, plaintiff must bring suit under the Federal Torts Claim Act, 28 U.S.C. §§ 2671-2680 (the "FTCA"). To bring an action in federal court against the Marshals Service under the FTCA, a plaintiff must first present his or her claim to the appropriate federal agency pursuant to 28 U.S.C. § 2675(a). Non-compliance with § 2675(a) operates as a jurisdictional bar to proceeding in federal court. McCoy v. United States, 264 F.3d 792, 795 (8th Cir. 2001) ("A litigant may not base any part of his tort action against the United States on claims that were not first presented to the proper administrative agency."). Plaintiff has not presented his claim to the Marshals Service. Therefore, jurisdiction is lacking.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion to proceed in forma pauperis [ECF No. 4] is **GRANTED**.

**IT IS FURTHER ORDERED** that the plaintiff shall pay an initial filing fee of \$13.33 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

**IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice

An Order of Dismissal will accompany this Memorandum and Order.

Dated this 20th day of January, 2015.



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HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE