

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CORYESHA LAVONDA DAVIS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:16 CV 819 JMB
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on consideration of Defendant’s Motion To Dismiss Plaintiff’s Complaint. (ECF No. 11) In the motion, Defendant argues that this Court does not have subject-matter jurisdiction over Plaintiff’s Complaint because the Court has construed Plaintiff’s Complaint to be a cause of action under the Federal Tort Claims Act (“FTCA”), and Plaintiff has failed to exhaust her administrative remedies, as required under the FTCA.

The Court agrees with Defendant that Plaintiff has not shown that she has presented this claim to the Veteran’s Administration, as required under 28 U.S.C. § 2675(a). This failure to exhaust administrative remedies deprives the Court of subject-matter jurisdiction. See Mader v. United States, 654 F.3d 794, 805 (8th Cir. 2011) (en banc) (holding that compliance with administrative exhaustion is a “jurisdictional precondition to filing an FTCA suit in federal district court”). Therefore, the Court will dismiss Plaintiff’s Complaint.

The Court also holds that is appropriate to dismiss this matter due to Plaintiff’s failure to comply with its order dated October 11, 2016. (See ECF No. 15) That order discussed the Court’s concern that it lacked jurisdiction due to Plaintiff’s failure to exhaust remedies, and the order required Plaintiff to demonstrate subject-matter jurisdiction by October 25, 2016. The

Court has not heard from Plaintiff since that time. The Court also notes that Plaintiff may refile this lawsuit after she exhausts her administrative remedies.

Accordingly,

**IT IS HEREBY ORDERED** that Defendant's Motion To Dismiss Plaintiff's Complaint (ECF No. 11) is **GRANTED**. This matter is dismissed, without prejudice to refiling after Plaintiff exhausts her administrative remedies. The Clerk is directed to close the case.

**IT IS FURTHER ORDERED** that Plaintiff's Motion For Appointment Of Counsel And Affidavit In Support (ECF No. 2) is **DENIED, as moot**.

A separate Order of Dismissal will be entered this day.

/s/ **John M. Bodenhausen**  
UNITED STATES MAGISTRATE JUDGE

Dated this 22nd day of November, 2016