

NOT FOR PUBLICATION

(Doc. Nos. 37, 59, 61)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE**

MIKE PEREZ	:	Civil No. 11-6833 (RBK/AMD)
	:	
Plaintiff,	:	<b>ORDER</b>
	:	
v.	:	
	:	
NICOLLETA TURNER, et al.	:	
	:	
Defendants.	:	
	:	

**KUGLER**, United States District Judge:

**THIS MATTER** having come before the Court upon certain Defendants’ motion to dismiss Plaintiff’s causes of action for failure to state a claim upon which relief can be granted and for lack of subject matter jurisdiction (Doc. No. 37) and upon the United States’ motion for summary judgment on Plaintiff’s Federal Tort Claims Act (“FTCA”) claims (Doc. No. 59), and, finally, upon Plaintiff’s motion to stay the Court’s ruling on the United States’ summary judgment motion (Doc. No. 60), and the Court having considered the moving papers and responses thereto; and for the reasons expressed in the Opinion issued this date;

**IT IS HEREBY ORDERED** that the United States motion for summary judgment is **GRANTED IN PART AND DENIED IN PART**. The motion is granted with respect to Plaintiff’s FTCA claim arising out of a November 2009 incident with Defendant Turner. It is denied with respect to his FTCA claim arising out of the medical care he received from

Defendants Turner, Patel, and Hittie. Plaintiff shall file and serve upon Defendants an Affidavit of Merit supporting these medical malpractice claims within thirty (30) days.

**IT IS HEREBY FURTHER ORDERED** that the motion to dismiss Plaintiff's claims asserted under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) is **GRANTED**. All of Plaintiff's *Bivens* claims are **DISMISSED WITH PREJUDICE**, with the exception of his Eighth Amendment deliberate indifference claims against Defendants Turner and Patel in their individual capacities, which is **DISMISSED WITHOUT PREJUDICE**. Plaintiff shall have thirty (30) days in which to file an Amended Complaint against these two individuals that conforms to the legal standard for Eighth Amendment deliberate indifference liability set forth in the Court's accompanying Opinion. **IT IS HEREBY FURTHER ORDERED** that Plaintiff's motion to stay is **DENIED**.

Dated: 6/25/2013

/s/ Robert B. Kugler  
ROBERT B. KUGLER  
United States District Judge