

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IVAN YNFANTE,
Plaintiff

v.

**UNITED STATES OF AMERICA;
ROBERT WOODSON, III; JASON
MADRIGAL; DAVID CLARK and
JOHN DOES 1-7,
Defendants**

No. 3:13cv767
(Judge Munley)

.....

ORDER

AND NOW, to wit, this 12th day of February 2015, defendants' motion to dismiss (Doc. 42) is **GRANTED** as follows:

1. The motion is **GRANTED** with respect to Counts 1-5, 7-10, and 12-13. These counts are **DISMISSED** with prejudice;
2. The motion is **GRANTED** regarding plaintiff's medical negligence claim under the FTCA asserted in paragraph 25 of the amended complaint. This claim is **DISMISSED** with prejudice;
3. The motion is **GRANTED** to the extent that plaintiff's Bivens denial of medical care claim (Count 6) and Bivens excessive force claim (Count 11) are **DISMISSED** without prejudice. Plaintiff is directed to file a second amended complaint within fourteen (14) days from the date of this order to fix all of the defects set forth in the accompanying memorandum pertaining to Counts 6 and 11. Failure

to file a timely second amended complaint will subject the instant matter to dismissal for failure to prosecute and comply with a court order. FED. R. CIV. P. 41(b); Link v. Wabash R.R., 370 U.S. 626, 630 (1962);

4. The United States of America is **DISMISSED** as a defendant in Counts 6 and 11; and
5. Defendants' shall file a responsive pleading fourteen (14) days from the date that plaintiff files a second amended complaint.

BY THE COURT:

s/ James M. Munley
JUDGE JAMES M. MUNLEY
United States District Court