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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

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DWIGHT O. BROUSSARD,

Plaintiff,

v.

UNITED STATES ARMY MEDICAL  
COMMAND,

Defendant.

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

Case No. 2:13-CV-00054

Judge Robert J. Shelby

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This case has been referred to Magistrate Judge Brooke Wells pursuant to 28 U.S.C. § 626(b)(1)(B). Plaintiff Dwight O. Broussard brought suit for violations of his civil rights and alleged medical malpractice, stemming from medical treatment he received as a member of the National Guard. Defendant moved to dismiss for lack of subject-matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1), and Mr. Broussard moved to continue. (Dkt. Nos. 32, 34.)

Judge Wells issued a Report & Recommendation on February 18, 2015. (Dkt. 37.) Judge Wells recommended the court grant the Government's Motion to Dismiss and deny Mr. Broussard's Motion to Continue. Neither party submitted an objection to the Report & Recommendation within the allotted time frame.<sup>1</sup> In the absence of an objection, the court may apply a "clearly erroneous" standard. Under this standard, the court "will affirm the Magistrate

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<sup>1</sup> Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b).

Judge's ruling unless [the court] . . . is left with the definite and firm conviction that a mistake has been committed."<sup>2</sup>

After reviewing the briefing, record, and relevant legal authorities, the court concludes that Judge Wells did not err in her analysis. The court therefore **ADOPTS** the Recommendation, **GRANTS** the Government's Motion to Dismiss (Dkt. 32), and **DENIES** Mr. Broussard's Motion to Continue. (Dkt. 34.) Mr. Broussard's claims are dismissed with prejudice, and the Clerk of Court is directed to close the case.

SO ORDERED this 10th day of March, 2015.

BY THE COURT:

  
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ROBERT J. SHELBY  
United States District Judge

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<sup>2</sup> *Thompson v. Astrue*, 2010 WL 1944779, at \*1 (D. Utah May 11, 2010) (internal quotation marks and citations omitted).