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U.S. DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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JERRY EARNEST LOPEZ,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

**ORDER ADOPTING  
RECOMMENDATION AND  
DISMISSING CASE**

Case No. 2:22-cv-00479-BSJ

District Judge Bruce S. Jenkins

Magistrate Judge Jared C. Bennett

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Before the court is the Report and Recommendation issued by United States Magistrate Judge Jared C. Bennett on November 1, 2022, recommending this action be dismissed on sua sponte review pursuant to 28 U.S.C. § 1915.

The parties were notified of their right to file objections to the Report and Recommendation within fourteen days of service.<sup>1</sup> Neither party has filed any objection.

Having reviewed all relevant materials, including the reasoning set forth in the Magistrate Judge's Report and Recommendation, the court adopts the recommendation, finding Plaintiff failed to properly allege subject-matter jurisdiction. Plaintiff's First Amended Complaint fails to allege any waiver of sovereign immunity on the part of the United States.<sup>2</sup> Accordingly, this action must be dismissed for lack of subject-matter jurisdiction.

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<sup>1</sup> See R. & R. (ECF No. 14).

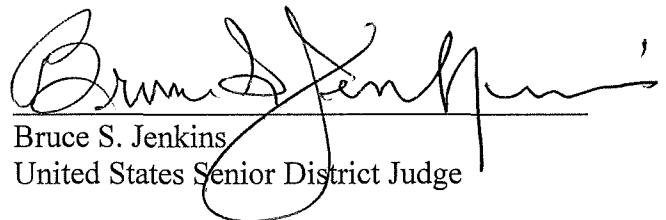
<sup>2</sup> See First Am. Compl. (ECF No. 13).

Further, the court notes that Plaintiff was warned of his failure to allege waiver of sovereign immunity when the Magistrate Judge previously ordered him to amend his Complaint.<sup>3</sup> Thus, Plaintiff has twice failed to allege any waiver of sovereign immunity: once at the outset of the case and a second when he amended, notwithstanding the Magistrate Judge's warning. Therefore, the court also agrees with the Magistrate Judge's suggestion that leave for further amendment would be futile.

**ORDER**

Based on the foregoing, the court ADOPTS the Report and Recommendation and DISMISSES Plaintiff's Complaint for lack of subject matter jurisdiction.

DATED this 18 day of November 2022.

  
Bruce S. Jenkins  
United States Senior District Judge

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<sup>3</sup> See Mem. Decision Order Am. Compl. (ECF No. 12)