

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

SAMUEL E. HARRIS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:16CV158–HEH
)	
UNITED STATES OF AMERICA)	
DEPARTMENT OF)	
VETERANS AFFAIRS,)	
)	
Defendant.)	

MEMORANDUM OPINION
(Dismissing FTCA Action Without Prejudice)

Samuel E. Harris, a Virginia inmate proceeding *pro se* and *in forma pauperis*, brought this action pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 1346 & 2671 *et seq.*¹ In his “NOTICE OF CLAIM” (“Complaint,” ECF No. 1), Harris indicated that he “hereby gives notice that within six (6) months from the date of this notice, claimant will file a claim against the Department of Veterans Affairs for the below injury(s).” (*Id.* at 1.)

¹ That statute provides, in pertinent part:

[T]he district courts . . . shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages . . . for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

28 U.S.C. § 1346(b)(1).

By Memorandum Order entered on October 5, 2016, the Court directed Harris to show cause, within eleven (11) days of the date of entry thereof,

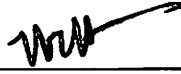
why his Complaint should not be dismissed for any of the following reasons: (1) for failure to exhaust administrative remedies pursuant to 28 U.S.C. § 2675(a); (2) as untimely pursuant to 28 U.S.C. § 2401(b); and (3) for failure to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2) & 1915A.

(ECF No. 13, at 4.) The Court warned Harris that failure to respond would result in summary dismissal of the action. (*Id.*)

More than eleven (11) days have passed, and Harris has not responded to the Court's October 5, 2016 Memorandum Order. Such conduct demonstrates a willful failure to prosecute. *See* Fed. R. Civ. P. 41(b). Accordingly, this action will be dismissed without prejudice.

An appropriate Order will accompany this Memorandum Opinion.

Date: Nov. 8, 2016
Richmond, Virginia



/s/
HENRY E. HUDSON
UNITED STATES DISTRICT JUDGE