

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

LEONA COLE,	:	
Plaintiff,	:	
	:	
v.	:	CASE NO. 3:11-cv-543 (SRU)
	:	
DR. ROBERT GREENE, et al.,	:	
Defendants.	:	

RULNG AND ORDER

The plaintiff, Leona Cole, filed this action asserting claims of improper prenatal care, wrongful death of her son, and medical negligence against defendants are Dr. Robert Greene, the Federal Bureau of Prisons, Danbury Health Services Administrator, and the Warden at FCI Danbury. On August 1, 2011, the court determined that Cole's claims should have been filed under the Federal Tort Claims Act, 28 U.S.C. § 1346(b) ("FTCA"). Because the proper defendant in an FTCA claim is the United States, the court ordered that the United States be added as a defendant and dismissed the claims against the original defendants. *See* Doc. #11.

Cole now asks the court to remove the United States as a party to this action. She refers the court to 28 U.S.C. § 3002(15) and argues that she did not intend to file suit against a corporation. The cited statute provides definitions applicable to Chapter 176 of Title 28 which is entitled "Federal Debt Collection Procedure." Because that chapter is irrelevant to the claims asserted in Cole's complaint, her argument fails.

Cole also argues that the persons she original named as defendants are not protected by sovereign immunity because they are individuals; only the federal government is immune from

suit. Cole is incorrect. The FTCA provides government employees immunity for claims of common-law tort. *See Rivera v. United States*, 928 F.2d 592, 608 (2d Cir. 1991). Thus, the only way Cole can pursue her tort claims is through an FTCA action against the United States.

Cole's motion [**Doc. #23**] is **DENIED**. If Cole does not wish to assert an FTCA claim against the United States, she may withdraw this action.

The pretrial deadlines in this case are hereby amended. All discovery shall be completed on or before October 1, 2012 and any motions for summary judgment shall be filed on or before November 1, 2012.

SO ORDERED this 9th day of July 2012, at Bridgeport, Connecticut.

/s/ Stefan R. Underhill
Stefan R. Underhill
United States District Judge