

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 13-6818**

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BARTO USRY,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee,

and

DOUGLASS WILLIS, Unit Manager,

Party-in-Interest.

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Appeal from the United States District Court for the Northern  
District of West Virginia, at Wheeling. Frederick P. Stamp,  
Jr., Senior District Judge. (5:11-cv-00141-FPS-JES)

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Submitted: October 28, 2013

Decided: November 6, 2013

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Before AGEE, DAVIS, and THACKER, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Barto Usry, Appellant Pro Se. Alan McGonigal, Assistant United  
States Attorney, Wheeling, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Barto Usry appeals the district court's order rejecting the magistrate judge's recommendation and dismissing his action under the Federal Tort Claims Act ("FTCA") for lack of subject matter jurisdiction. On appeal, Usry challenges the district court's conclusion that his FTCA claim is barred by the discretionary function exception. See 28 U.S.C. § 2680(a) (2006). We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. Usry v. United States, No. 5:11-cv-00141-FPS-JES (N.D. W. Va. Mar. 25, 2013). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED