

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-2389

PAUL L. EPLEY,

Plaintiff - Appellant,

versus

MILTON E. WEST; DEPARTMENT OF VETERANS
AFFAIRS,

Defendants - Appellees.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. Frank W. Bullock, Jr., Chief District Judge. (CA-98-85-1)

Submitted: December 8, 1998

Decided: December 29, 1998

Before WIDENER and MURNAGHAN, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Paul L. Epley, Appellant Pro Se. Gill Paul Beck, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Paul Epley appeals from the district court's order dismissing his claim under the Federal Torts Claims Act ("FTCA") for failure to exhaust his administrative remedies. Epley sued both the Veteran's Administration ("VA") and an employee, Milton E. West, for false arrest. Our review of the record discloses that the United States was properly substituted as a party. See Gutierrez de Martinez v. Lamagno, 515 U.S. 417, 435-36 (1995); Gutierrez de Martinez v. Drug Enforcement Admin., 111 F.3d 1148, 1155 (4th Cir. 1997), cert. denied, ___ U.S. ___, 66 U.S.L.W. 3295, 66 U.S.L.W. 3296 (U.S. Oct. 20, 1997) (No. 97-104). Although the district court correctly concluded that Epley failed to exhaust his administrative remedies on this claim, we affirm the dismissal because the claim is barred by sovereign immunity. The FTCA's limited waiver of sovereign immunity excludes claims for false arrest. See 28 U.S.C.A. § 2680(h) (West 1994 & Supp. 1998). Therefore, Epley's claim is barred by sovereign immunity.

Accordingly, we affirm the judgment of the district court on this basis. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED