

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ANDREW BIGBEE,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER

05-C-66-C

In this civil action for monetary relief under the Federal Tort Claims Act, 28 U.S.C. §§ 2671 – 2680, plaintiff, an inmate at the Federal Correctional Institution in Oxford, Wisconsin, seeks compensation for the destruction of several purses he made and left in the prison’s Machine Shop/Welding Shop. The parties have fully briefed a motion for summary judgment, which has not yet been decided. Now, however, plaintiff has written a letter to the court dated December 19, 2005, in which he requests exhibit forms and stickers so that he can prepare his exhibits for trial. In addition, plaintiff notes that if his case survives summary judgment, it will be tried to the court on April 17, 2006. Plaintiff asks that he be permitted a jury trial instead.

Plaintiff’s request for a jury trial will be denied. Except in rare circumstances not

present here, there is no right to a jury trial in actions against the United States under the Federal Tort Claims Act. United States v. Neustadt, 366 U.S. 696, n.10 (1961) (citing 28 U.S.C. § 2402); Stoleson v. United States, 708 F.2d 1217, 1221 (7th Cir. 1983); 9 Wright & Miller, Federal Practice and Procedure § 2337 at p. 130 (1971).

As for plaintiff's request for exhibit stickers and lists, I will deny the request as premature. Plaintiff may renew his request if his case survives defendant's motion for summary judgment.

ORDER

IT IS ORDERED that plaintiff's request for a jury trial is DENIED.

Further, IT IS ORDERED that plaintiff's requests for exhibit sheets and stickers is DENIED without prejudice to his renewing the request after the court has ruled on defendant's motion for summary judgment.

Entered this 27th day of December, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge