

FILED

MAY 19 2009

**Clerk, U.S. District and
Bankruptcy Courts**

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Hector Villegas Aguirre,

Plaintiff,

v.

United States of America,

Defendant.

Civil Action No. 09 0922

MEMORANDUM OPINION

The plaintiff is a prisoner who has filed a *pro se* complaint and an application to proceed *in forma pauperis*. The application will be granted and the complaint dismissed for lack of subject matter jurisdiction.

Plaintiff has filed a civil action under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 *et seq.* A civil action may be not be instituted under that Act

unless the claimant shall have first presented the claim to the appropriate federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make a final disposition of a claim within six months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section.

28 U.S.C. § 2675(a). This court does not have subject matter jurisdiction over FTCA claims that have not been administratively exhausted as required by § 2675(a). *See Jackson v. United States*, 730 F.2d 808, 809 (D.C. Cir. 1984) ("Such a[n administrative] claim is a mandatory jurisdictional prerequisite to a[n FTCA] suit against the United States."). Plaintiff has not demonstrated that he has exhausted his administrative remedies. Because plaintiff has not

established that this court has subject matter jurisdiction over this action, the action will be dismissed without prejudice.

A separate order accompanies this memorandum opinion.

Date: *8 May 2009*

Rosemary M. Collyer
United States District Judge