

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
OKLAHOMA

Stacy Goad, as Personal Representative of the Estate of Larry D.
Thompson, deceased v. United States of America

Goad v. United States · No. CIV-25-052-RAW-GLJ · Decided March 20, 2026

SUMMARY

The United States District Court for the Eastern District of Oklahoma affirmed and adopted a magistrate judge’s report and recommendation concerning the Government’s motion to dismiss Stacy Goad’s Federal Tort Claims Act action arising from Larry D. Thompson’s death after a watercraft collision with an underwater log on Lake Tenkiller. The court held that conversion of the Rule 12(b)(1) motion to a Rule 56 motion was proper and that the discretionary function exception to the FTCA barred the claim. The court granted the Government’s motion and dismissed the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of Oklahoma
WRITING FOR THE COURT	Ronald A. White
JURISDICTION	United States District Court for the Eastern District of Oklahoma
DECIDED	March 20, 2026
DOCKET	CIV-25-052-RAW-GLJ
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed de novo a magistrate judge's report and recommendation recommending conversion of the Government's Rule 12(b)(1) motion to a Rule 56 motion, granting the motion, and dismissing the action with prejudice.
STANDARD OF REVIEW	De novo review of the magistrate judge's report and recommendation; conversion of the Rule 12(b)(1) motion was reviewed under the governing Rule 12(d) and Rule 56 principles.
PRECEDENTIAL VALUE	unknown
PARTIES	Stacy Goad, as Personal Representative of the Estate of Larry D. Thompson, deceased v. United States of America

TOPICS

subject matter jurisdiction

motions to dismiss

summary judgment

civil procedure

torts

PRACTICE AREAS

Federal Tort Claims Act

sovereign immunity

federal civil procedure

QUESTIONS PRESENTED

1. Whether the Government's Rule 12(b)(1) motion could properly be converted into a Rule 56 motion.
2. Whether the parties had adequate notice of and opportunity to respond to conversion of the motion to summary judgment.
3. Whether the discretionary function exception to the Federal Tort Claims Act barred Plaintiff's claims.
4. Whether the challenged conduct involved an element of judgment or choice under the first prong of the Berkovitz test.
5. Whether the challenged conduct was grounded in the kind of policy judgment protected by the discretionary function exception under the second Berkovitz prong.

HOLDINGS

1. Conversion of the Government's Rule 12(b)(1) motion to a motion for summary judgment was proper because the jurisdictional question was intertwined with the merits of the Federal Tort Claims Act claim and both parties submitted materials beyond the pleadings.
2. The report and recommendation provided adequate notice because both parties had submitted substantial material beyond the pleadings in connection with the motion, placing them on notice that the court could treat the motion as one for summary judgment.
3. The discretionary function exception barred Plaintiff's claims because the Government's decisions concerning whether and how to place navigational aids or buoys involved judgment or choice and were grounded in policy considerations.

KEY QUOTATIONS

“The FTCA provides a limited waiver of sovereign immunity.”

“The existence of some mandatory language does not eliminate discretion when the broader goals sought to be achieved necessarily involve an element of discretion.”

FACTUAL BACKGROUND

Larry Thompson was operating a watercraft on Lake Tenkiller for recreational or fishing purposes when the watercraft struck an underwater log that Plaintiff alleged was hidden from passers-by. Plaintiff alleged that the United States Army Corps of Engineers knew or should have known of the object but failed to remove it or warn lake users. The action was brought under the Federal Tort Claims Act.

PROCEDURAL HISTORY

Plaintiff brought Federal Tort Claims Act claims arising from Larry Thompson's death after his watercraft struck an underwater log in Lake Tenkiller. The Government moved to dismiss for lack of subject matter jurisdiction under the discretionary function exception. After Plaintiff amended her complaint, the magistrate judge recommended converting the motion to a motion for summary judgment, granting it, and dismissing the case with prejudice. Following Plaintiff's objection, the district court conducted de novo review, adopted the report and recommendation, granted the Government's motion, and dismissed the case.

DISPOSITION

dismissed

CASES CITED

- Wheeler v. Hurdman, 825 F.2d 257, 259-60 (10th Cir. 1987)
- Bell v. United States, 127 F.3d 1226, 1228 (10th Cir. 1997)
- Ball v. United States, 967 F.3d 1072, 1075-76, 1079 (10th Cir. 2020)
- Berkovitz v. United States, 486 U.S. 531, 536 (1988)
- Kiehn v. United States, 984 F.2d 1100, 1102-03 (10th Cir. 1993)
- Hardscrabble Ranch, L.L.C. v. United States, 840 F.3d 1216, 1222 (10th Cir. 2016)
- United States v. Gaubert, 499 U.S. 315, 324-25 (1991)