

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Zackery J. Askins v. Research Medical Center

Askins · No. 25-3238-JWL · Decided February 5, 2026

SUMMARY

The United States District Court for the District of Kansas transfers Zackery J. Askins’s medical-malpractice action against Research Medical Center to the Western District of Missouri for improper venue. The court concludes that Research is located in Missouri, the underlying events occurred there, and transfer is in the interest of justice because dismissal could render the claims time-barred.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	John W. Lungstrum
JURISDICTION	United States District Court for the District of Kansas
DECIDED	February 5, 2026
DOCKET	25-3238-JWL
DISPOSITION	transferred
PROCEDURAL POSTURE	Plaintiff filed an action originally invoking the Federal Tort Claims Act and then submitted an amended complaint asserting medical malpractice or medical negligence. The court determined that the District of Kansas was an improper venue and transferred the action to the United States District Court for the Western District of Missouri.
STANDARD OF REVIEW	The court reviewed the amended complaint on its face to determine whether venue was proper and whether transfer rather than dismissal was warranted under 28 U.S.C. § 1406(a).
PRECEDENTIAL VALUE	unpublished district court memorandum and order
PARTIES	Zackery J. Askins v. Research Medical Center

TOPICS

- venue
- medical malpractice
- negligence
- civil procedure

PRACTICE AREAS

- civil procedure
- medical malpractice
- Federal Tort Claims Act
- venue

QUESTIONS PRESENTED

1. Whether the District of Kansas was a proper venue under 28 U.S.C. § 1391(b) when the defendant was located in Missouri and the events underlying the claims occurred in Missouri.
2. Whether the action should be transferred rather than dismissed under 28 U.S.C. § 1406(a) because transfer was in the interest of justice.
3. Whether Plaintiff's original complaint stated a claim under the Federal Tort Claims Act when it named Research Medical Center rather than the United States and did not allege that Research was a federal institution or employed federal actors.

HOLDINGS

1. The original complaint did not state a claim under the Federal Tort Claims Act because the United States is the only proper defendant in an FTCA action, Plaintiff did not name the United States, and Research Medical Center was not alleged or shown to be a federal institution with federal employees.
2. The District of Kansas was not a proper venue because Research Medical Center was located in Kansas City, Missouri, no defendant resided in Kansas, and none of the events giving rise to Plaintiff's claims occurred in Kansas.
3. The action should be transferred to the United States District Court for the Western District of Missouri rather than dismissed.

KEY QUOTATIONS

“The United States is the only proper defendant in an FTCA action.”

FACTUAL BACKGROUND

Plaintiff was transported to Research Medical Center in Kansas City, Missouri, in January 2024 while serving as a military prisoner and was diagnosed with acute pancreatitis and pancreatic stones. He alleges that Research repeatedly discharged and readmitted him through May 2024 while he suffered life-threatening conditions, including a splenic artery rupture, infections, and complications from surgery and inadequate care. Research Medical Center is located in Missouri and is owned by HCA Midwest Health rather than the federal government.

PROCEDURAL HISTORY

Plaintiff, a military prisoner, initially filed an FTCA action against Research Medical Center. The court issued an order to show cause because the complaint failed to state an FTCA claim, including because the United States was not named as a defendant and Research was not a federal facility. In response, Plaintiff filed an amended complaint alleging medical malpractice and medical negligence. The court transferred the action under 28 U.S.C. § 1406(a) because the relevant events occurred in Missouri and transfer was in the interest of justice.

DISPOSITION

transferred

REMAND INSTRUCTIONS

The action shall be transferred to the United States District Court for the Western District of Missouri.

CASES CITED

- Ingram v. Faruque, 728 F.3d 1239, 1245 (10th Cir. 2013)
- Smith v. United States, 561 F.3d 1090, 1099 (10th Cir. 2009)
- Oxendine v. Kaplan, 241 F.3d 1272, 1275 n.4 (10th Cir. 2001)
- Trujillo v. Williams, 465 F.3d 1210, 1223 n.16 (10th Cir. 2006)

OPINION

Askins

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

ZACKERY J. ASKINS,

Plaintiff,

v. CASE NO. 25-3238-JWL

RESEARCH MEDICAL CENTER,

Defendants.

MEMORANDUM AND ORDER

This matter is an action originally filed under the Federal Tort Claims Act (“FTCA”) by Plaintiff Zackery J. Askins, who is a military prisoner confined at the Midwest Joint Regional Corrections Facility at Fort Leavenworth, Kansas. On December 22, 2025, the Court entered a Memorandum and Order to Show Cause (Doc. 13, “MOSC”) ordering Plaintiff to show good cause why his Complaint should not be dismissed for failure to state a claim. This matter is before the Court on Plaintiff’s response (Doc. 14) and Amended Complaint (“AC”) (Doc. 14-1). The Court found in the MOSC that Plaintiff did not state a claim under the FTCA. The FTCA, 28 U.S.C. §§ 1346(b)(1), 2671–2680, “allows the United States to be sued for claims arising out of negligent or wrongful acts or omissions of its employees, when such employees are acting within the scope of their duties.” Ingram v. Faruque, 728 F.3d 1239, 1245 (10th Cir. 2013) (citing § 1346(b)(1)). “The United States is the only proper defendant in an FTCA action.” Smith v. U.S., 561 F.3d 1090, 1099 (10th Cir. 2009) (quoting Oxendine v. Kaplan, 241 F.3d 1272, 1275 n.4 (10th Cir. 2001)). Plaintiff did not name the United States as a defendant and did not assert that the defendant, Research Medical Center (“Research”), is a federal institution with federal employees. In fact, Research is not a government facility; it is owned by HCA Midwest Health. For that reason, Plaintiff did not state a claim under the FTCA. Plaintiff responds by submitting an amended complaint. He continues to name Research as the sole defendant but changes his cause of action to medical malpractice or medical negligence. Plaintiff alleges in the AC that he was transported to Research

in January of 2024 as a military prisoner and diagnosed with acute pancreatitis with pancreatic stones. (AC, Doc. 14-1, at 1.) He was treated at Research “on and off” through May of 2024. Id. Plaintiff asserts that Defendant repeatedly released him, claiming he had been treated, only to have Plaintiff readmitted on numerous occasions with life-threatening conditions related to the originally treated condition. Id. at 1-2. On one occasion, Plaintiff suffered a rupture of his splenic artery almost immediately upon release from Defendant’s care. Plaintiff contends this was due to malpractice and misdiagnosis. Id. at 2. On another occasion, Plaintiff suffered a severe infection allegedly caused by Defendant’s failure to clean the insertion site or change the bandages on a splenic drain for more than four days while in Defendant’s care. Id. Plaintiff further alleges that he suffered a septic infection that was present and untreated while in Defendant’s care. Id. In addition, Plaintiff contends that Defendant subjected him to under- and/or un-sedated surgery on two occasions. Id. During surgery on Plaintiff’s spleen, agents of Defendant allegedly severed a nerve causing constant muscle spasms and complications. Id. Also during surgery on Plaintiff’s spleen, Plaintiff claims that Defendant’s agents left partially vivisected necrotic portions of the spleen inside of him. Id. Last, Plaintiff asserts that Defendant repeatedly and forcibly discharged Plaintiff while he suffered from life-threatening conditions. Id. Plaintiff seeks \$3 million for his physical harm, \$2 million for his mental suffering, and other “consequential damages.” Id. at 3. General venue principles are found in 28 U.S.C. § 1391(b), which provides that a civil action may be brought in a judicial district where any defendant resides, a district where a substantial part of the events giving rise to the claim occurred, or, if no district meets those criteria, a district in which a defendant is subject to the court’s personal jurisdiction in the action. The Court has reviewed the AC and concludes it is clear from the face that the District of Kansas is not a proper venue for this action. Research is located in Kansas City, Missouri.¹ Therefore, no defendant resides in the District of Kansas, none of the events giving rise to the claims occurred in the District of Kansas, and the events underlying the claims occurred within the Western District of Missouri. When a case is brought in the wrong venue, the district court in which the case is filed “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). To determine whether transfer is in the interest of justice, the Court considers, for example, whether the action would be time-barred if filed anew in the proper venue, whether the claims are likely to have merit, and whether the action was filed in good faith or “filed after ‘plaintiff either realized or should have realized that the forum in which he or she filed was improper.’” See *Trujillo v. Williams*, 465 F.3d 1210, 1223 n.16 (10th Cir. 2006) (citations omitted). The events underlying Plaintiff’s claims occurred between January and May 2024, so dismissing this action and requiring Plaintiff to file a new action in the proper venue could make the new action time-barred. (See §516.105, RSMo.) Further, Plaintiff has been granted leave to proceed in forma pauperis in this matter and has paid an initial partial filing fee of \$219.00. (See Doc. 14.) ¹ See www.hcamidwest.com/locations/research-medical-center/about-us. The Court concludes that it is in the interest of justice to transfer this matter to the

proper venue. IT IS THEREFORE ORDERED BY THE COURT that this action shall be transferred to the United States District Court for the Western District of Missouri. IT IS SO ORDERED. Dated February 5, 2026, in Kansas City, Kansas. S/ John W. Lungstrum
JOHN W. LUNGSTRUM
UNITED STATES DISTRICT JUDGE