

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

JOHN F. CORCORAN, :  
 :  
 Plaintiff, :  
 :  
 V. : CASE NO. 3:96CV2107 (RNC)  
 :  
 UNITED STATES OF AMERICA, :  
 :  
 Defendant. :

RULING ON MOTION TO DISMISS

After careful consideration, I conclude that this court does not have jurisdiction to adjudicate the plaintiff's claim for intentional infliction of emotional distress under the Federal Tort Claims Act, 28 U.S.C. §§ 1346, 2671, et seq. ("FTCA").

The plaintiff's claim is admittedly based on the same factual allegations of on-the-job harassment and abuse as the claim that was presented to the Postal Service under the Federal Employees Compensation Act, 5 U.S.C. §§ 8101, et seq. ("FECA"). See Complaint ¶ 13. The FECA claim was denied by the Secretary of Labor's designate, not for lack of coverage, see Decision of Hearing Representative at 2 ("Actions of an employee's supervisor which the employee characterizes as harassment may constitute a compensable factor of employment"), but for lack of corroboration, see id., at 4 ("the claimant has not submitted any . . . independent evidence corroborating his belief that the employing agency acted erroneously or abusively in taking these actions.").

Congress has given the Secretary the power to decide all questions arising under the FECA and the Secretary's decision denying the plaintiff's claim is not subject to judicial review. See 5 U.S.C. §§ 8128(b) and 8145. The plaintiff's present claim is therefore barred. See Bennett v. Barnett, 210 F.3d 272, 277 (5<sup>th</sup> Cir. 2000) (FTCA claim for emotional distress based on on-the-job harassment barred by Secretary's denial of FECA claim for lack of proof).

Accordingly, the motion to dismiss is hereby granted.

So ordered.

Dated at Hartford, Connecticut this 13<sup>th</sup> day of September 2002.

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Robert N. Chatigny  
United States District Judge