

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

DAVID L. GIST, SR.,
Plaintiff-Appellant,

v.

UNITED STATES,
Defendant-Appellee.

2013-1127

Appeal from the United States District Court for the Northern District of New York in case no. 09-CV-1361, Senior Judge Neal P. McCurn.

O R D E R

The court considers whether this appeal should be dismissed or transferred.

David L. Gist, Sr. appeals from a judgment of the United States District Court for the Northern District of New York which dismissed his complaint of medical malpractice against a Department of Veterans Affairs medical facility for lack of subject matter jurisdiction. This court is a court of limited jurisdiction, which does not appear to include jurisdiction in this matter. 28 U.S.C. § 1295.

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Accordingly,

IT IS ORDERED THAT:

(1) The parties are directed to respond within 21 days from the date of filing of this order concerning whether this appeal should be transferred to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 1631.

(2) The briefing schedule is stayed.

FOR THE COURT

/s/ Jan Horbaly
Jan Horbaly
Clerk

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