

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DAVID DELVALLE,

Plaintiff,

v.

Case No.: 2:23-cv-735-SPC-NPM

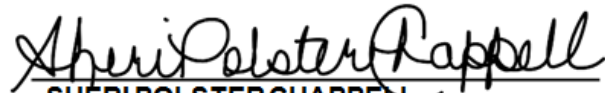
MICHAEL FIORUCCI,

Defendant.

OPINION AND ORDER

Before the Court is Plaintiff David Delvalle's Motion to Alter or Amend the Judgment (Doc. 19). Delvalle is a prisoner of the Florida Department of Corrections, and he filed this 42 U.S.C. § 1983 action *pro se*. Delvalle alleged Dr. Michael Fiorucci injured him in a botched surgery. The Court dismissed Delvalle's complaint and explained that his allegations support at most a medical negligence or malpractice claim, which must be brought in state court. (Doc. 15). Delvalle challenges the Court's judgment, but he misses the point. Delvalle argues Fiorucci is not immune from a § 1983 suit merely because he is a professional. The Court did not hold that Delvalle cannot sue Fiorucci under § 1983. Rather, the subject matter of this action makes state court the only proper venue. Delvalle is not entitled to post-judgment relief. Accordingly, Delvalle's motion (Doc. 19) is **DENIED**.

DONE and **ORDERED** in Fort Myers, Florida on December 28, 2023.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

SA: FTMP-1

Copies: All Parties of Record