

United States Court of Appeals
For the Eighth Circuit

No. 23-1225

Candace Bishop, Personal Representative for the Estate of Charles Edward Bishop,
Jr.

Plaintiff - Appellant

Charles Edward Bishop, Jr., Estate *Plaintiff*

Plaintiff

v.

United States of America

Defendant - Appellee

Appeal from United States District Court
for the District of South Dakota - Central

Submitted: October 4, 2023

Filed: October 10, 2023

[Unpublished]

Before BENTON, KELLY, and STRAS, Circuit Judges.

PER CURIAM.

Candace Bishop, acting as personal representative of the estate of Charles Edward Bishop, Jr., appeals the district court's¹ adverse grant of summary judgment in her Federal Tort Claims Act (FTCA) action. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

Upon de novo review, this court concludes that summary judgment was properly granted, as the evidence in the record was insufficient to support Bishop's negligence claim. *See Wood v. Wooten*, 986 F.3d 1079, 1080 (8th Cir. 2021) (de novo review of grant of summary judgment); *Sorace v. United States*, 788 F.3d 758, 763 (8th Cir. 2015) (in FTCA claim, applicable law is law of the place where act or omission occurred; analogue for FTCA claim under South Dakota state law is a negligence claim, which requires proof of duty, breach of that duty, proximate and factual causation, and actual injury) (citation and quotation marks omitted); *Davidson & Assocs. v. Jung*, 422 F.3d 630, 638 (8th Cir. 2005) (to defeat summary judgment "[a] plaintiff may not merely point to unsupported self-serving allegations, but must substantiate allegations with sufficient probative evidence that would permit a finding in the plaintiff's favor"). To the extent Bishop intended to raise any other issues on appeal, we find no basis for reversal.

The judgment is affirmed. *See* 8th Cir. R. 47B.

¹The Honorable Roberto Lange, Chief Judge, United States District Court for the District of South Dakota.