

United States Court of Appeals
For the Eighth Circuit

No. 14-1233

Paul M. Gordon

Plaintiff - Appellant

v.

Bonnie Lee Ann Draper

Defendant - Appellee

Appeal from United States District Court
for the Western District of Arkansas - Hot Springs

Submitted: June 17, 2014

Filed: June 27, 2014

[Unpublished]

Before LOKEN, MURPHY, and SMITH, Circuit Judges.

PER CURIAM.

Paul Gordon appeals the district court's¹ pre-service dismissal of his 42 U.S.C. § 1983 action against Bonnie Draper, a private person who has allegedly prevented Gordon's mail from being delivered to his son, who lives with Draper. Upon de novo review, see Moore v. Sims, 200 F.3d 1170, 1171 (8th Cir. 2000), we conclude the district court properly dismissed the complaint with prejudice under 28 U.S.C. § 1915(e)(2) because it failed to state a claim upon which § 1983 relief can be granted for the reasons stated in Magistrate Judge Bryant's Report and Recommendation. This is a merits dismissal under Rule 12(b)(6) of the Federal Rules of Civil Procedure, not a dismissal for lack of subject matter jurisdiction. See, e.g., Morrison v. Nat'l Australia Bank, Ltd., 561 U.S. 247, 254 (2010). As so modified, the judgment of the district court is affirmed. See 8th Cir. R. 47B.

¹The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas, adopting the report and recommendations of the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas.