

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION

ANTHONY SCOTT FABRIZIO
ADC # 654248

PLAINTIFF

v. **No. 1:12-cv-121-DPM-JJV**

**ARKANSAS DEPARTMENT
OF CORRECTION; CINDY SMITH,
North Central Unit; CHAD McGOWAN,
North Central Unit; and BURROWS, Warden**

DEFENDANTS

ORDER

Fabrizio's mail has been coming back as undeliverable since late December. *Document No. 8*. He has not objected to Magistrate Judge Volpe's partial recommended disposition, *Document No. 10*, and his time to do so has expired. The Court adopts Judge Volpe's recommendation with clarifications. The Eleventh Amendment bars § 1983 suits seeking damages against States. Fabrizio's complaint is silent about what relief he seeks, but a fair reading is that he wants damages against the Arkansas Department of Correction (the State, as Judge Volpe recognized) for allegedly retaliatory discipline that extended his incarceration. So the Eleventh Amendment bar applies. Fabrizio's claims against the ADC are dismissed with prejudice; his claims

against Burrows and McGowan are dismissed without prejudice. The claim against Smith remains.

The case cannot proceed, however, unless Fabrizio maintains a current address on file with the Court. Local Rule 5.5(c)(2). Communication is impossible otherwise. The Court will therefore dismiss the rest of this case without prejudice unless Fabrizio updates his address by 22 February 2013.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

7 February 2013