

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

M. DEWAYNE LINDSEY

Plaintiff

VS.

THE CITY OF BLYTHEVILLE
POLICE DEPARTMENT, THE CITY
OF BLYTHEVILLE, ARKANSAS, ET
AL.

Defendants

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NO: 3:09CV00015 SWW

ORDER

Plaintiff M. DeWayne Lindsey filed this wrongful employment termination action in state court, and Defendants removed the case to this federal Court. Before the Court is a motion to dismiss by the City of Blytheville Police Department (docket entry #4). The time for responding has passed, and Plaintiff has not filed a response. After careful consideration, and for the reasons that follow, the motion to dismiss will be granted, and the City of Blytheville Police Department will be dismissed as a party to this action.

The capacity to sue or be sued is determined by the law of the state in which the district court is held. *See* Fed. R. Civ. P. 17(b). Under Arkansas law, political subdivisions, including cities, are empowered to sue and be sued, *see* Ark. Code Ann. § 14-54-101, but police

departments are merely divisions or departments of political subdivisions, without the capacity to sue or be sued. *See Ketchum v. City of West Memphis, Ark.*, 974 F.2d 81, 81 (8th Cir.1992)(“The West Memphis Police Department and West Memphis Paramedic Services are not juridical entities suable as such. They are simply departments or subdivisions of the City government.”).

The Court agrees that the City of Blytheville Police Department is not subject to suit and must be dismissed as a party to this action.

IT IS THEREFORE ORDERED that Defendant’s motion to dismiss (docket entry #4) is GRANTED. The City of Blytheville Police Department is dismissed as a party to this action.

IT IS SO ORDERED THIS 4TH DAY OF MARCH, 2009.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE