

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

FRED SMITH
("We, the People, Frederick Smith")

PLAINTIFF

V. CASE NO. 3:15-CV-00402 JM/BD

**ARKANSAS BOARD OF
ELECTION COMMISSIONERS, et al.**

DEFENDANTS

ORDER

This is one of many lawsuits Mr. Smith has filed in this district arising out of the same set of circumstances in which he was removed from an election ballot by court order.¹ As in those cases, Mr. Smith moves to proceed *in forma pauperis*. This motion (Docket No. 1) is granted. However, the Court must screen the complaint before ordering service. 28 U.S.C. §1915 (e)(2).

Like the case filed before this Court in the Western Division, Case 4:15-cv-00521, this is an action by Mr. Smith against the Arkansas Board of Election Commissioners, the Cross County Election Commission, and Crittenden County [Election Commission] for RICO and Sherman Act Violations as well as violations of the Voting Rights Act. For the reasons stated in the Recommended Disposition of Magistrate Judge Beth Deere in that case (Docket No. 49), which was subsequently adopted by this Court, Plaintiff lacks standing to bring his present claims in this action as he did in 4:15-cv-00521.

Furthermore, the Board of Election Commissioners and Defendant Beebe, who

¹ See the chart of cases in Docket No. 3 in 3:16-cv-00068-DPM.

was acting in his official capacity as Governor of the State of Arkansas at all times relevant to this lawsuit, are immune from suit under the Eleventh Amendment, and the Court lacks jurisdiction over them.

Finally, Mr. Smith fails to state facts sufficient to support his RICO or Sherman Act claims, and those claims are dismissed pursuant to Rule 12(b)(6).

THEREFORE, Plaintiff's motion for leave to proceed in forma pauperis (Docket No. 1) is granted, but his complaint is dismissed with prejudice for lack of jurisdiction and lack of standing.

The Court joins Judge D.P. Marshall, Jr.² in cautioning Mr. Smith that he cannot keep filing federal lawsuits about issues that either have been decided or that lack merit.

IT IS SO ORDERED this 8th day of November, 2016.



UNITED STATES DISTRICT JUDGE

² Case 3:16-cv-89-DPM