

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

R.S. MANN., M.D.

PLAINTIFF

v.

CASE NO. 4:08-CV-0473 BSM

ARKANSAS STATE MEDICAL BOARD

DEFENDANT

ORDER

Defendant Arkansas State Medical Board (“ASMB”) has filed a motion to dismiss, and plaintiff R.S. Mann, M.D. (“Dr. Mann”) has responded.

ASMB asserts that it, as an agency of the State of Arkansas, is not a “person” subject to suit under 42 U.S.C. § 1983, and is immune from suit. *See Murphy v. Arkansas*, 127 F.3d 750, 754 (8th Cir. 1997) (holding that the Eleventh Amendment bars suit against agencies of the State of Arkansas, but plaintiff may seek equitable relief against state officials acting in their official capacities). In his response filed on October 23, 2008, Dr. Mann concedes that ASMB is not the proper party for the claims and relief sought, but states that he will file a motion for leave to file an amended complaint naming the individual members of the defendant board and individual agents of the board. To date, no motion to amend has been filed. Therefore, the court finds that defendant’s motion should be granted.

Accordingly, defendant Arkansas State Medical Board’s motion to dismiss (Doc. No. 3) is granted. Plaintiff’s complaint is dismissed with prejudice against defendant Arkansas State Medical Board.

IT IS SO ORDERED this 24th day of November, 2008.



UNITED STATES DISTRICT JUDGE