

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

HYNDERIA DECELIA LUCKEY GAMMON

PLAINTIFF

v.

4:09-cv-00733-GTE

**STATE OF ARKANSAS, JOHN MANZANET,
DEPARTMENT OF JUSTICE, JOHN DOES**

DEFENDANTS

ORDER

This case is before the Court upon the motion of Plaintiff for leave to commence this action without prepayment of the filing fee pursuant to 28 U.S.C. § 1915. For the reasons set forth below, the Court concludes that this case must be dismissed, without prejudice, rendering Plaintiff's motion moot.

While 28 U.S.C. § 1915(a) allows for the commencement of a suit, without the prepayment of fees, the statute goes on to provide that “the court shall dismiss the case at any time” upon a determination that the action is frivolous, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B).

Plaintiff contends in her Complaint that her home was invaded and microchips were placed in her body, as well as those of her granddaughter and other children. She refers to a “light show in the plates” in her head. She states that Osoma Bin Ladin called her house. She alleges that she was followed by a soldier, who is not identified, and seeks a restraining order to stop him from following her. She also seeks an award of one hundred million dollars.

Plaintiff may not recover money damages from the State of Arkansas. The Eleventh Amendment bars a citizen from bringing suit in federal court against a state, a state agency, or a state official sued in his official capacity for monetary damages which must be paid from public funds in the state treasury. *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 66 (1989).

The Department of Justice is not a proper party to a so-called *Bivens* action. *See Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) (establishing right to recover damages for constitutional violations of federal agents); *F.D.I.C. v. Meyer*, 510 U.S. 471, 485-86 (1994) (plaintiff may bring a *Bivens* action against an individual federal officer, but not the agency that employs the officer).

The allegations against the remaining individual Defendants are fanciful and nonsensical.

Pursuant to 28 U.S.C. § 1915(e)(2),

IT IS HEREBY ORDERED THAT Plaintiff's Complaint (docket entry # 2) be, and it is hereby, DISMISSED, WITHOUT PREJUDICE.

IT IS FURTHER ORDERED THAT Plaintiff's motion for leave to proceed *in forma pauperis* (Doc. No. 1) be, and it is hereby DENIED, as moot.

IT IS SO ORDERED THIS 6th day of November, 2009.

/s/Garnett Thomas Eisele
UNITED STATES DISTRICT JUDGE