

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

JAMES DAVID COCHRAN
ADC #122317

PLAINTIFF

v.

CASE NO. 5:11CV00036 BSM/BD

**RICKY D. FARVER, Sergeant, Maximum Security Unit,
Arkansas Department of Correction et al.**

DEFENDANTS

ORDER

The proposed findings and partial recommended disposition submitted by United States Magistrate Judge Beth Deere [Doc. No. 66] and the filed objections [Doc. Nos. 67-68] have been reviewed. After carefully considering these documents and making a *de novo* review of the record, it is concluded that the proposed findings and recommended disposition should be, and hereby are, approved and adopted in part and rejected in part.

The finding that the official capacity claims against defendants Ricky D. Farver and Lance Hall should be dismissed on the basis of sovereign immunity is approved and adopted. Because plaintiff James David Cochran's amended complaint [Doc. No. 41] failed to state whether he was suing the defendants in their individual capacities, the defendants are entitled to summary judgment as a matter of law as to the remaining claims. "If a plaintiff's complaint is silent about the capacity in which [he] is suing the defendant, we interpret the complaint as including only official-capacity claims." *Baker v. Chisom*, 501 F.3d 920, 923 (8th Cir. 2007) (citing to *Egerdahl v. Hibbing Cmty. Coll.*, 72 F.3d 613, 619 (8th Cir. 1995)).

IT IS THEREFORE ORDERED that:

1. Defendants' motion for summary judgment [Doc. No. 57] is granted and all claims against the defendants are dismissed.

2. Cochran's motion for trial date [Doc. No. 73] is denied.

An appropriate judgment shall accompany this order.

Dated this 29th day of October 2012.



UNITED STATES DISTRICT JUDGE