

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

**EVATT WARNER, III
ADC # 160178**

PLAINTIFF

v.

Case No. 5:18-cv-00202-KGB-JJV

RAHKEEM HAWTHORNE, et al.

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommendations submitted by United States Magistrate Judge Joe J. Volpe (Dkt. No. 8). Judge Volpe granted Mr. Warner an extension until October 1, 2018, to file objections to the Proposed Findings and Recommendations (Dkt. No. 11). Based upon the Court's review of this docket, no objections have been filed, and the time for filing objections has passed. After careful consideration, the Court concludes that the Proposed Findings and Recommendations should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects (Dkt. No. 8).

Mr. Warner's claims for monetary relief against defendants Rahkeem Hawthorne, Vernon Robertson, and Jarred Buyers in their official capacities are barred by the Eleventh Amendment. *See Will v. Michigan Dep't of State Police*, 491 U.S. 58, 66 (1989) (holding that the Eleventh Amendment bars suit for monetary damages against state employees acting in their official capacities, unless the State has waived its immunity). Furthermore, as discussed in the Proposed Findings and Recommendations, Mr. Warner's individual capacity claims against separate defendants Mr. Robertson and Mr. Buyers are not cognizable under 42 U.S.C. § 1983

Accordingly, the Court dismisses without prejudice Mr. Warner's claims for monetary damages against Mr. Hawthorne, Mr. Robertson, and Mr. Buyers in their official capacities. The Court also dismisses Mr. Warner's claims against Mr. Robertson and Mr. Buyers in their individual

capacities for failure to state a claim upon which relief may be granted. Mr. Robertson and Mr. Buyers are hereby dismissed as defendants from this case. The Court certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an *in forma pauperis* appeal from this Order would not be taken in good faith.

It is so ordered, this the 11th day of February, 2019.



Kristine G. Baker
United States District Judge