



*Fleming v. United States*, 847 F. Supp. 170, 172 (D.D.C. 1994), *cert. denied* 513 U.S. 1150 (1995) (“By filing a complaint in this Court against federal judges who have done nothing more than their duty . . . Fleming has instituted a meritless action.”) (applying *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415, 416 (1923)).

Moreover, plaintiff purports to sue Governor Brown “in his individual and official capacities,” Compl. ¶ 5, but he alleges no facts showing that Brown was personally involved in the alleged misconduct and he describes Brown’s role “as overseer and head” of the California Department of Corrections. *Id.* Consequently, the Court finds this aspect of the complaint to be an official-capacity lawsuit, which “in all respects other than name, [is] to be treated as a suit against the entity [state of California].” *Kentucky v. Graham*, 473 U.S. 159, 166 (1985). The Eleventh Amendment to the U.S. Constitution immunizes a state from suit in federal court, unless immunity is waived.<sup>1</sup> The U.S. Supreme Court has made clear that § 1983 does not waive a state’s immunity from suit. *See Graham*, 473 U.S. at 169-70 (concluding that “an official-capacity action for damages could not have been maintained against [Kentucky] Commissioner Brandenburgh in federal court.”). Hence this case will be dismissed with prejudice. A separate Order accompanies this Memorandum Opinion.

DATE: August 3, 2015

  
United States District Judge

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<sup>1</sup> The amendment provides in pertinent part: “[t]he judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State.” U.S. Const. amend. XI. It is long established that this amendment applies equally to suits brought by citizens against their own states. *See Edelman v. Jordan*, 415 U.S. 651, 662-63 (1974); *Hans v. Louisiana*, 134 U.S. 1, 13-15 (1890).