

. subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights . . . shall be liable to the party injured in an action at law” (Emphasis added.) The Supreme Court has held the term “persons” does not include states, state agencies, and state officials sued in their official capacities. *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 71 (1989). Plaintiffs’ complaint names the State Defendants because of their “act[s] under the color of State Law . . . in [the] *official capacities . . . of their employment.*” [Docket No. 1 at 3, ¶ 7 (emphasis added).]

Second, Plaintiffs’ complaint alleges no personal involvement on the part of State Defendants. [Docket No. 1.] A § 1983 claim requires allegations of personal participation in the claimed violation, either through an act or by directing the conduct which caused the alleged constitutional violation. *Sanville v. McCaughtry*, 266 F.3d 724, 740 (7th Cir. 2001); *see also Zimmerman v. Tribble*, 226 F.3d 568, 574 (7th Cir. 2000). Allegations of negligent supervision, without a showing of personal involvement, do not state a claim upon which relief can be granted under § 1983. *Gossmeyer v. McDonald*, 128 F.3d 481, 487 (7th Cir. 1997).

Finally, the Eleventh Amendment entitles a state and state officials to sovereign immunity from lawsuits brought by citizens in federal court. Indiana has not waived its Eleventh Amendment immunity. *Meadows v. Indiana*, 854 F.2d 1068, 1069 (7th Cir. 1988). When public officials are sued in their official capacity, it is the equivalent of suing the state itself. *Will*, 491 U.S. at 71.

Accordingly, Plaintiffs' have failed to state a claim against State Defendants upon which relief can be granted. As such, State Defendants' motion to dismiss [Docket No. 31] is granted and the claims against Defendants Al Parke and Bruce Lemmon are dismissed without prejudice.

Dated: 10/09/2009



Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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