

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

LAWRENCE PETERSON,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:11-cv-01122-TWP-MJD
)	
LIEUTENANT R. MARVELL sued in his)	
individual and official capacities, under color)	
of state law,)	
OFFICER M. BALLARD sued in his)	
individual and official capacities, under color)	
of state law,)	
Defendants.)	

Entry Concerning Selected Matters

The court, having considered the above action and the matters which are pending, makes the following rulings:

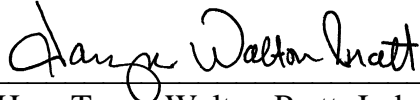
1. The plaintiff shall have through **May 20, 2013**, in which to notify the court in writing whether he requests the court’s assistance in recruiting counsel to represent him in the further development and potential trial of this action.

2. Pursuant to 28 U.S.C. § 1915A(b), the court has *sua sponte* reviewed the Complaint and determined that **claims against the defendants in their official capacities must be dismissed**. The reason for this ruling is that an official-capacity claim is effectively a suit against the governmental entity employing the defendant. *Scott v. O’Grady*, 975 F.2d 366, 369 (7th Cir.1992), *cert. denied*, 508 U.S. 942 (1993). In this case, therefore, an official capacity claim against the defendant individuals as employees of the Indiana Department of Correction would in essence be against the State of Indiana. Such claims are barred by the Eleventh

Amendment to the United States Constitution, and the doctrine of sovereign immunity. See *Kentucky v. Graham*, 473 U.S. 159, 165-67 and n.14 (1985) (suit for damages against state officer in official capacity is barred by the Eleventh Amendment); *see also Omosogbon v. Wells*, 335 F.3d 668, 673 (7th Cir. 2003) (the state is not a “person” that can be sued under 42 U.S.C. § 1983). The claims in this action shall proceed against the defendants in their individual capacities only. No partial final judgment shall issue at this time as to the claims resolved in this Entry.

IT IS SO ORDERED.

Date: 04/29/2013


Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

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