

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

FRANKLIN G. ENDICOTT,)	
)	
Plaintiff,)	
)	
v.)	No. 2:14CV107 DDN
)	
JAMES HURLEY, et al.,)	
)	
Defendants,)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on plaintiff’s first amended complaint. Having reviewed the complaint, the Court finds that it survives frivolity review as to each of the named defendants in their individual capacities. Therefore, the Court will direct the Clerk to reinstate the defendants named in the amended complaint.

Naming a government official in his or her official capacity is the equivalent of naming the government entity that employs the official, in this case the State of Missouri. Will v. Michigan Dep’t of State Police, 491 U.S. 58, 71 (1989). “[N]either a State nor its officials acting in their official capacity are ‘persons’ under § 1983.” Id. As a result, the complaint fails to state a claim upon which relief can be granted against defendants in their official capacities.

Accordingly,

IT IS HEREBY ORDERED that plaintiff’s official-capacity claims are **DISMISSED**.

IT IS FURTHER ORDERED that the Clerk shall reinstate all of the defendants named in the amended complaint.

IT IS FURTHER ORDERED that the Clerk shall issue process or cause process to issue on each of the named defendants.¹

Dated this 27th Day of February, 2015.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE

¹ A waiver letter has already been sent regarding defendant Larry Allen. Defendants Pasha Allen, Dr. Cabrera, and Corizon, Inc., should be served according to the Court's agreement with Corizon.