

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

CHARLIE J. ADAWAY,)	
)	
Plaintiff,)	
)	
v.)	No. 4:10CV890 RWS
)	
JOHN DOE (CAMBELL),)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court for review of plaintiff’s amended complaint under 28 U.S.C. § 1915(e). Plaintiff brings this case against defendants under 42 U.S.C. § 1983 in their individual and official capacities. Defendants are correctional officers at the Eastern Reception Diagnostic and Correctional Center. Plaintiff alleges that defendants maced him and assaulted him while he was confined in administrative segregation. Plaintiff further alleges that he was not given medical attention after the incident.

Naming a government official in his or her official capacity is the equivalent of naming the government entity that employs the official, i.e., 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, and these claims will be dismissed.

However, plaintiff's claims against defendants in their individual capacities survive review under 28 U.S.C. § 1915(e). As a result, the Court will order the Clerk to serve process or cause process to be served on the complaint.

Accordingly,

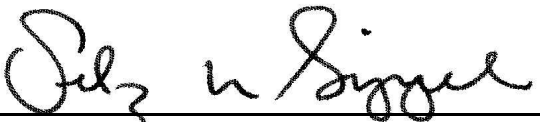
IT IS HEREBY ORDERED that the Clerk shall issue process or cause process to issue on the complaint.¹

IT IS FURTHER ORDERED that plaintiff's claims against defendants in their official capacities are **dismissed**.

IT IS FURTHER ORDERED that, pursuant to 42 U.S.C. § 1997e(g)(2), defendants shall reply to plaintiff's claims within the time provided by the applicable provisions of Rule 12(a) of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that this case is assigned to Track 5B: Prisoner Standard.

Dated this 8th day of July, 2010.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

¹Each defendant is alleged to be a correctional officer at the Eastern Reception Diagnostic and Correctional Center.