

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MATTHEW TAYLOR,

Plaintiff,

v.

No. 16cv1330 WJ/GBW

BRAD WINTER,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER comes before the Court on *pro se* Plaintiff's Civil Rights Complaint Pursuant to 42 U.S.C. § 1983, Doc. 1, filed December 6, 2016 ("Complaint"), and on his Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 2, filed December 6, 2016 ("Application"). For the reasons stated below, the Court **DISMISSES** this case **without prejudice** and **DENIES** Plaintiff's Application as moot.

Plaintiff filed his Complaint using the form "Civil Rights Complaint Pursuant to 42 U.S.C. § 1983." Plaintiff is suing Brad Winter, Secretary of State for the State of New Mexico. Plaintiff alleges:

Mr. Brad Winter acknowledged multiple crimes, President Obama had partaken in outside of New Mexico, but illegally ignored and disregarded the two crimes that President Obama partook in within New Mexico that are within New Mexico's jurisdiction. The complaint that I filed against Governor Susana Martinez identifies the illegalities & criminal malfeasance that occurred here in New Mexico that Mr. Winter illegally dismissed & closed out.

....

This case is a gateway instrument identifying multiple facets within a multi faceted situation, other than the illegalities and criminal malfeasance identified in the particulars of this case, this will become very apparent upon reading & reviewing everything. Mr. Winter illegally dismissed/closed out a valid complaint against Governor Susana Martinez, to protect & shield her from both accountability & the consequences of her illegal actions, in doing this, Mr. Winter disregarded & turned a blind eye to my civil rights as though I have no civil rights, which of course I do.

Mr. Winter did what he did because he could do it, due to the power of the office he holds. There was nor is there any legal reasoning nor rational for Mr. Winter's unlawful action.

Complaint at 1-2. Plaintiff seeks only monetary relief: "A fair & justified amount of relief given who is involved & factoring in the other facets within my multi faceted situation is \$100 million dollars." Complaint at 5.

New Mexico Secretary of State Brad Winter is immune to Plaintiff's suit for damages pursuant to 42 U.S.C. § 1983. See *Hull v. State of New Mexico Taxation and Revenue Department's Motor Vehicle Division*, 179 Fed.Appx. 445, 446 (10th Cir. 2006) ("It is well established that arms of the state, or state officials acting in their official capacities, are not 'persons' within the meaning of § 1983 and therefore are immune from § 1983 damages suits.").

The Court dismisses this case for lack of jurisdiction. See Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action"); *Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1218 (10th Cir.2006) ("[D]ismissals for lack of jurisdiction should be without prejudice because the court, having determined that it lacks jurisdiction over the action, is *incapable* of reaching a disposition on the merits of the underlying claims."). Additionally, since the Court is dismissing this case, the Court denies Plaintiff's Application to proceed *in forma pauperis* as moot.

IT IS ORDERED this case is **DISMISSED without prejudice**.

IT IS ALSO ORDERED that Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 2, filed December 6, 2016, is **DENIED as moot**.


UNITED STATES DISTRICT JUDGE