

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 10-1250

Michele Cherie Chapman Moore,

Appellant,

v.

Joyce Plock; State of Nebraska;
York Penitentiary for Women;
Dave Heineman, Governor of
Nebraska; Robert Houston,
Director of Dept. of Correctional
Services; Ryan Mahr, Warden of
Community Corrections Center of
Omaha; Jamey Odell, R.N. Acting
ADON of Attorney General's Office
OCC,

Appellees.

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* Appeal from the United States
* District Court for the
* District of Nebraska.
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* [UNPUBLISHED]
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Submitted: May 27, 2010
Filed: June 2, 2010

Before WOLLMAN, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Former Nebraska inmate Michele Moore appeals the district court's¹ preservice dismissal without prejudice of her 42 U.S.C. § 1983 complaint. After careful de novo review, see Moore v. Sims, 200 F.3d 1170, 1171 (8th Cir. 2000) (per curiam), we agree with the district court that Moore's claims were barred by the Eleventh Amendment, see Will v. Mich. Dep't of State Police, 491 U.S. 58, 71 (1989) (because Eleventh Amendment immunizes states from suit, neither state nor its officials acting in their official capacity are "persons" under § 1983); Monroe v. Ark. State Univ., 495 F.3d 591, 594 (8th Cir. 2007) (Eleventh Amendment bars suit against state agency for any kind of relief); Larson v. Kempker, 414 F.3d 936, 939 n.3 (8th Cir. 2005) (Eleventh Amendment bars § 1983 lawsuit against state agency even if entity is moving force behind deprivation of federal right (citing Kentucky v. Graham, 473 U.S. 159, 169 (1985))); Johnson v. Outboard Marine Corp., 172 F.3d 531, 535 (8th Cir. 1999) (unless pleading expressly and unambiguously states public official is sued in individual capacity, it will be assumed that defendant is sued only in official capacity).

Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable Joseph F. Bataillon, Chief Judge, United States District Court for the District of Nebraska.