

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 2 -cv- -
(write case number here)

Plaintiff ,

(write your name here)

v.

Jared Polis (Governor of Colorado), et al.,
Defendants.

MOTION TO VOLUNTARILY DISMISS THE PLAINTIFF'S CLAIM THREE
FOR DAMAGES AGAINST DEFENDANTS IN THEIR OFFICIAL CAPACITIES

The Plaintiff, _____ ^{YOUR}name, pro-se herewith moves this Court to grant voluntary dismissal of his claim for damages against the Defendants in their official capacities for Deliberate Indifference to Serious Mental Healthcare Need [CLAIM THREE]. A claim against a state employee in his official capacity is a claim against the State itself. Such claim is barred by Eleventh Amendment Immunity, unless such immunity is waived by the State.¹

[] ^(check one box below) The Plaintiff is in receipt of Court Order or Motion to Dismiss:

[] ^{(name of Motion or Order) (date of Motion or Order)} The Plaintiff is in receipt of no Order or Motion re: Claim 3.

Because his CLAIM THREE for damages against the Defendants in their official capacities is barred by Eleventh Amendment immunity, the Plaintiff moves to dismiss this claim only. He maintains his claim for damages against the Defendants in their individual capacities, and every other claim made in the Prisoner Complaint.

CERTIFICATE OF SERVICE

I attest that a true copy of the foregoing is mailed First Class with postage affixed addressed 1300 Broadway 10th Fl., 80203 on the date below:

Respectfully Submitted,

sign and
date here.

¹ Absent waiver by the state or valid congressional override, the Eleventh Amendment bars a damages claim against a State in federal Court. Kentucky v. Graham, 473 US 159, 169 (1985); state officials sued in their official capacities for monetary damages are not 'persons' subject to suit under §1983. Will v. Mich. Dept of State Police, 491 US 58, 71 (1989)