

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

QUINTON BODIAZ JOHNSON,

Plaintiff,

v.

Case No. 3:18-cv-318-J-39PDB

J. DIMAURO,

Defendant.

ORDER

Before the Court is Defendant J. Dimauro's Motion to Dismiss (Doc. 17; Motion to Dismiss). Defendant moves the Court to dismiss Plaintiff's Amended Complaint "to the extent that it seeks monetary damages from Defendant . . . in his official capacity." See Motion to Dismiss at 4. In his response (Doc. 19; Response), Plaintiff acknowledges he does not sue Defendant in his official capacity. See Response at 1-2. Moreover, the Eleventh Amendment provides immunity from suit "[w]hen the action is in essence one for the recovery of money from the state." Zatler v. Wainwright, 802 F.2d 397, 400 (11th Cir. 1986) (per curium) (quoting Edelman v. Jordan, 415 U.S. 651 (1974)). In his Amended Complaint, Plaintiff seeks monetary relief only. Accordingly, Defendant is immune from suit in his official capacity, and his Motion to Dismiss is due to be granted.¹ Individual-capacity claims against Defendant remain.

¹ Plaintiff asks the Court to deny the Motion to Dismiss, stating that Defendant "is not entitled to qualified immunity." See Response at 2. However, Defendant does not assert a qualified immunity defense. See Motion to Dismiss at 4.

Accordingly, it is now

ORDERED:

1. Defendant's Motion to Dismiss (Doc. 17) is **GRANTED** to the extent that Defendant is immune from suit in his official capacity.

2. Defendant must answer the Amended Complaint (Doc. 7) within twenty days of the date of this Order.

3. Defendant's Reply to Plaintiff's Response (Doc. 20) is **STRICKEN**. Defendant did not seek leave of Court to file a Reply. See Local Rule 3.01(c) ("No party shall file any reply or further memorandum directed to [a] motion or response . . . unless the Court grants leave.").

DONE AND ORDERED at Jacksonville, Florida, this 12th day of February, 2019.

A handwritten signature in cursive script, reading "Brian J. Davis", is written over a horizontal line.

BRIAN J. DAVIS
United States District Judge

Jax-6

c:

Quinton Bodiaz Johnson
Counsel of Record