

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                               |                    |
|-------------------------------|--------------------|
| ARTURO LABOY,                 | :                  |
|                               | :                  |
| Plaintiff,                    | :                  |
|                               | :                  |
| v.                            | : Civil Action No. |
|                               | : 02-248-JJF       |
| DELAWARE CORRECTIONAL CENTER, | :                  |
| <u>et al.</u> ,               | :                  |
|                               | :                  |
| Defendants.                   | :                  |

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Arturo Laboy, Pro Se Plaintiff.

Stuart B. Drowos, Esquire, Deputy Attorney General, DELAWARE  
DEPARTMENT OF JUSTICE, Wilmington, Delaware.  
Attorney for Defendant Delaware Correctional Center.

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**MEMORANDUM OPINION**

March 21, 2003  
Wilmington, Delaware

**FARNAN, District Judge**

Pending before the Court is Defendant Delaware Correctional Center's ("DCC") Motion to Dismiss (D.I. 15). For the reasons discussed below, the Motion will be granted.

**BACKGROUND**

Plaintiff is currently incarcerated at the DCC in Smyrna, Delaware. By his Complaint, Plaintiff alleges, pursuant to 42 U.S.C. § 1983, that Defendants violated the Eighth and Fourteenth Amendments of the United States Constitution by failing to provide him with adequate medical care. The only relief sought by Plaintiff is monetary damages. (D.I. 2). The DCC moves for dismissal of Plaintiff's claims for failure to state a claim on the following grounds: (1) Plaintiff's allegations of cruel and unusual punishment do not rise to the level of an Eighth Amendment violation; (2) Plaintiff's claims against the DCC are barred by the doctrine of sovereign immunity; and (3) the DCC is immune from liability to Plaintiff under the Eleventh Amendment. Plaintiff's Response to Defendant's Motion to Dismiss (D.I. 19) does not address the DCC's sovereign immunity or Eleventh Amendment arguments.

**STANDARD OF REVIEW**

When a court analyzes a motion to dismiss brought under Rule 12(b)(6) of the Federal Rules of Civil Procedure, the factual allegations of the complaint must be accepted as true. Langford

v. City of Atlantic City, 235 F.3d 845, 847 (3d Cir. 2000). The court must draw all reasonable inferences in favor of the nonmoving party. Id. In sum, the only way a court can grant a Rule 12(b)(6) motion to dismiss is "if it appears that the [nonmoving party] could prove no set of facts" consistent with the allegations that would entitle it to relief. Id.

### **DISCUSSION**

The Eleventh Amendment provides that: "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or Citizens or Subjects of any Foreign State." U.S. Const. amend XI. More than a century ago, the United States Supreme Court first held that, under the Eleventh Amendment, each State is a sovereign entity in the federal system and that "it is inherent in the nature of sovereignty not to be amenable to the suit of an individual without its consent." Hans v. Louisiana, 134 U.S. 1, 13 (1890); see also Florida Prepaid Postsecondary Education Expense Board v. College Savings Bank, 527 U.S. 627, 634 (1999). Further, the scope of the Eleventh Amendment extends to an arm or instrumentality of a State, in addition to the State itself. Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle, 429 U.S. 274, 280 (1977). In sum, the Eleventh Amendment prohibits Section 1983 lawsuits for monetary damages against state governments in

federal court absent waiver by the state or valid congressional abrogation. Kentucky v. Graham, 473 U.S. 159, 169 (1985). There has been no waiver of Eleventh Amendment immunity in this case, and Section 1983 was not intended to abrogate States' Eleventh Amendment immunity. Quern v. Jordan, 440 U.S. 332, 345 (1979) ("§ 1983 does not explicitly and by clear language indicate on its face an intent to sweep away the immunity of the States; nor does it have a history which focuses directly on the question of state liability and which shows that Congress considered and firmly decided to abrogate the Eleventh Amendment immunity of the States").

The DCC is a facility run by the Delaware Department of Correction ("DOC"), which is an agency, arm, or instrumentality of the State of Delaware. Therefore, based on the applicable law discussed above, the Court concludes that Plaintiff's claim for monetary damages against the DCC is barred by the Eleventh Amendment and thus will grant the DCC's Motion to Dismiss.<sup>1</sup>

### **CONCLUSION**

For the reasons discussed, DCC's Motion to Dismiss (D.I. 15) will be granted.

An appropriate Order will be entered.

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<sup>1</sup> Accordingly, the Court will not address the DCC's other arguments.

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**ORDER**

At Wilmington this 21st day of March 2003, for the reasons  
set forth in the Memorandum Opinion issued this date;

IT IS HEREBY ORDERED that DCC's Motion to Dismiss (D.I. 15)  
is **GRANTED**.

JOSEPH J. FARNAN, JR.  
UNITED STATES DISTRICT JUDGE