

JOHNNY RAY CHANDLER,
Plaintiff,
v.
DISTRICT OF COLUMBIA, *et al.*,
Defendants.

Plaintiff Johnny Ray Chandler, a prison inmate proceeding *pro se*, filed this negligence action against defendants the District of Columbia, Mayor Adrian Fenty, and the District of Columbia Department of Corrections. This matter is now before the Court on defendants' motion to dismiss. Because Mr. Fenty and the Department of Corrections are not properly named as defendants, and because the plaintiff has conceded the defendants' motion by failing to respond to it, the Court will dismiss the plaintiff's claims against all defendants.

Defendants filed the pending motion on October 31, 2008. On November 17, 2008, the Court issued an Order pursuant to Fox v. Strickland, 837 F.2d 507 (D.C. Cir. 1988), notifying Mr. Chandler of the consequences of failing to respond to a dispositive motion. That Order was returned as undeliverable on December 1, 2008, shortly after a change of Mr. Chandler's address was noted by the Court. The Court then issued a second, identical Fox Order, informing Mr. Chandler once again of the consequences of a failure to respond and instructing him to file a response to defendants' motion by January 5, 2009. That Order was not returned.

Nevertheless, Mr. Chandler, a veteran litigant before this Court, failed to submit any response in opposition to the motion to dismiss this case.

Even if Mr. Chandler had opposed the pending motion, Mr. Fenty and the Department of Corrections would inevitably be dismissed as defendants. Mr. Chandler appears to sue Mr. Fenty in the Mayor's official capacity; he does not assert in his complaint that the Mayor personally took, ordered or ratified any action that injured him. See Notice of Removal of a Civil Action, Ex. A (plaintiff's complaint, originally filed in D.C. Superior Court). As a result, the complaint fails to state a claim against Mr. Fenty. See Daskalea v. District of Columbia, 227 F.3d 433, 447 (D.C. Cir. 2000) (citing Eskridge v. Jackson, 401 A.2d 986, 989 n.7 (D.C. 1979)).

The D.C. Department of Corrections is also improperly named as a defendant. Government agencies of the District of Columbia are not suable entities. See Foggy Bottom Ass'n v. District of Columbia Office of Planning, 441 F. Supp. 2d 84, 88 (D.D.C. 2006); Kundrat v. District of Columbia, 106 F. Supp. 2d 1, 5 (D.D.C. 2000); Arnold v. Moore, 980 F. Supp. 28, 33 (D.D.C. 1997) (citing Roberson v. District of Columbia Bd. of Higher Ed., 359 A.2d 28, 31 n.4 (D.C. 1976), and Miller v. Spencer, 330 A.2d 250, 251 n.1 (D.C. 1974)); Fields v. District of Columbia Dep't of Corrections, 789 F.Supp. 20, 22 (D.D.C. 1992). Mr. Chandler's claims against the Department of Corrections must therefore be dismissed.

Mr. Chandler's claims against the remaining defendant, the District of Columbia, will also be dismissed. The District contends pursuant to Fed. R. Civ. P. 12(b)(6) that Mr. Chandler's complaint fails to state a claim for negligence. Because he neglected to oppose that argument even after explicit warnings by this Court, Mr. Chandler is deemed to have conceded it. See D.D.C. LOCAL CIV. R. 7(b). The District's motion to dismiss for failure to state a claim

therefore is granted. An Order accompanying this Memorandum Opinion will issue this same day.

/s/

PAUL L. FRIEDMAN
United States District Judge

DATE: August 28, 2009