

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 09-3462

Montollie Warren,

Appellant,

v.

Fort Dodge Correctional Facility;
Mike Babcock; Karen Anderson;
Cornell Smith; John Baldwin;
Tom Conley,

Appellees.

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Appeal from the United States
District Court for the Northern
District of Iowa.

[UNPUBLISHED]

Submitted: April 19, 2010

Filed: April 23, 2010

Before WOLLMAN, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Montollie Warren appeals the district court's¹ order granting summary judgment to Fort Dodge Correctional Facility (FDCF) and several prison officials, and denying Warren's Federal Rule of Civil Procedure 37(b) motion for a default judgment, in his pro se 42 U.S.C. § 1983 action.

¹The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa.

Following careful de novo review, see Rouse v. Benson, 193 F.3d 936, 939 (8th Cir. 1999), we conclude that the district court properly granted summary judgment, and we also find no abuse of discretion in the court's denial of Warren's motion for a default judgment, see Crump v. Versa Prods., Inc., 400 F.3d 1104, 1110 (8th Cir. 2005) (standard of review for denial of Rule 37 motion for sanctions). Accordingly, we affirm. See 8th Cir. R. 47B. However, we modify the dismissal of FDCF to be with prejudice. See Monroe v. Ark. State Univ., 495 F.3d 591, 594 (8th Cir. 2007) (Eleventh Amendment bars claims against state agencies for any kind of relief); Tex. Cmty. Bank, N.A. v. Mo. Dep't of Soc. Servs., Div. of Med. Servs., 232 F.3d 942, 943 (8th Cir. 2000) (where Eleventh Amendment barred suit, state agency was entitled to dismissal with prejudice).
