

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-2406  
Conference Calendar

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RONALD J. PILLOT,

Plaintiff-Appellant,

versus

TEXAS EMPLOYMENT COMMISSION,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. CA-H-92-53  
- - - - -  
(January 21, 1993)

Before GARWOOD, SMITH, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

The Eleventh Amendment prohibits a private citizen from bringing suit against a state in federal court without that state's consent. Employees of the Dep't of Public Health and Welfare v. Dep't of Public Health and Welfare, 411 U.S. 279, 280, 93 S.Ct. 1614, 36 L.Ed.2d 251 (1973). This Court reviews a district court's dismissal under Rule 12(b)(1) de novo. Hobbs v. Hawkins, 968 F.2d 471, 475 (5th Cir. 1992).

Pillot alleges that his employer violated his civil rights

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

by failing to pay his unemployment benefits. Construed liberally, the allegations in Pillot's brief state a § 1983 violation. However, the Eleventh Amendment also bars claims against a state under 42 U.S.C. § 1983. See Farias v. Bexar Cty. Bd. of Tr., 925 F.2d 866, 875 n.9 (5th Cir.), cert. denied, 112 S.Ct. 193 (1991).

The district court noted that the Texas Unemployment Compensation Act provides for judicial review of TEC decisions in state court. See Tex. Rev. Civ. Stat. Ann. art. 5221b-4(i) (Vernon Supp. 1991)). A state's consent to suit in its own court does not constitute consent to suit in federal court unless the statute clearly indicates that the state intended to consent to suit in federal courts. See Ford Motor Co. v. Dep't of Treasury of Indiana, 323 U.S. 459, 465, 65 S.Ct. 347, 89 L.Ed. 389 (1945). Article 5221b-4(i) does not express an intention to allow judicial review of TEC decisions in federal court.

The TEC is an agency of the State of Texas; therefore, a suit against the TEC is a suit against the State of Texas. Daigle v. Gulf States Utilities Co., 794 F.2d 974, 980 (5th Cir.), cert. denied, 479 U.S. 1008 (1986). The State of Texas has not waived its immunity from suit in federal court under the Eleventh Amendment. The district court's determination that it lacked subject matter jurisdiction because Pillot's claim was barred by the Eleventh Amendment is AFFIRMED.