

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-41009  
Conference Calendar

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ELIJAH ALFRED ALEXANDER, JR.,

Plaintiff-Appellant,

versus

KELLY WARD and RICHARD L. STALDER,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 93-CV-876

- - - - -  
(January 24, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,  
Circuit Judges.

PER CURIAM:\*

Kelly Ward and Richard L. Stalder have moved this Court to dismiss Elijah Alfred Alexander, Jr.'s appeal as frivolous. Alexander's sole issue for appellate review is that Eleventh Amendment immunity does not apply to prevent a U.S. citizen from bringing action in federal court against a state or a state official in its or his official capacity. The Eleventh Amendment confers absolute immunity on an unconsenting state or its "arms" from suits brought in federal court by the state's own

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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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

citizens Puerto Rico Aqueduct and Sewer Auth. v. Metcalf & Eddy, Inc., \_\_\_ U.S. \_\_\_, 113 S. Ct. 684, 687, 121 L. Ed. 2d 605 (1993). "Absent waiver, neither a State nor its agencies acting under its control `may be subject to suit in federal court.'" Id. (internal citations omitted). Alexander does not contend that waiver is an issue in this case. Alexander's appeal is frivolous and is DISMISSED. See 5th Cir. Rule 42.2.

Alexander is duly put on notice that the filing of any further frivolous pleadings or appeals will open him to the full panoply of sanctions this Court may impose. See Fed. R. App. P. 38.