

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-41108
Conference Calendar

WARNER DOUGLAS WILLIAMS,

Plaintiff-Appellant,

versus

CHARLES E. JOINER, Judge,
ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 94-CV-984
- - - - -

June 29, 1995

Before JONES, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Warner Douglas Williams appeals the dismissal of his lawsuit against the Louisiana Department of Health and Human Resources (DHHR) because of Eleventh Amendment immunity and against various individual defendants based on lack of federal jurisdiction.

Williams's contention that he has a right to jury trial of his claims is without merit. FED. R. CIV. P. 12(b)(1) provides that a district court may dismiss a complaint for lack of

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

jurisdiction, thus precluding a jury trial. As explained below, Williams's jurisdictional contentions are unavailing. Williams's contention regarding his right to a jury trial therefore also is unavailing.

With the arguable exception of his contention that the defendants violated their oaths of office, Williams did not raise his allegations against the individual defendants in the district court, though he alluded to unspecified federal and state constitutional violations in his district court pleadings. This court need not address those issues. *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir. 1991).

Because this is an appeal from a dismissal for lack of jurisdiction, the well-pleaded allegations of the complaint must be taken as true. *Holy Cross College, Inc. v. Louisiana High School Athletic Ass'n*, 632 F.2d 1287, 1289 (5th Cir. 1980). The court's jurisdictional inquiry is limited to observing whether the complaint is drawn to seek recovery under a federal statute or the Constitution. *Daigle v. Opelousas Health Care, Inc.*, 774 F.2d 1344, 1347 (5th Cir. 1985). The assertion of a claim under a federal statute alone is sufficient to empower the district court to assume jurisdiction over the case and determine whether the statute invoked does provide the claimed rights. *Id.* Williams did not allege any federal statutory or constitutional violation. The district court correctly dismissed his claims against the individual defendants for lack of jurisdiction.

The Louisiana Department of Health and Human Resources ("DHHR") is immune from suit in federal court pursuant to the

Eleventh Amendment. *Darlak v. Bobear*, 814 F.2d 1055, 1059-60 (5th Cir. 1987). In his complaint, Williams sought only monetary relief from the defendants. The district court properly dismissed Williams's claim against DHHR due to Eleventh Amendment immunity.

Because Williams's appeal is frivolous, it is hereby DISMISSED. See 5th Cir. R. 42.2. Additionally, Williams's motion for mandamus relief against the state courts is hereby DENIED. Williams's motion to compel the defendants to file certain documents also is hereby DENIED.