

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60776
Conference Calendar

THARWAT M. HAMAMCY, M.D.,

Plaintiff-Appellant,

versus

TEXAS STATE BOARD OF
MEDICAL EXAMINERS,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-B-94-062
- - - - -

June 29, 1995

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

PER CURIAM:*

Tharwat M. Hamamcy, M.D., filed a complaint in federal district court against the Texas State Board of Medical Examiners (the Board) alleging that the Board did not give him a proper medical license and subsequently revoked that license. Neither a state nor its agencies may be sued in federal court unless the state has consented to the suit. Pennhurst State School and Hosp. v. Halderman, 465 U.S. 89, 100 (1984). Nothing indicates

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

that Texas has consented to this suit, and Hamamcy has not argued that it has consented. See Emory v. Texas State Bd. of Medical Examiners, 748 F.2d 1023, 1025 (5th Cir. 1984). The retroactive, compensatory, and injunctive relief Hamamcy seeks against the defendants in their official capacities is expressly prohibited. Pennhurst, 465 U.S. at 105-106.

The Supreme Court carved out an exception to Eleventh Amendment immunity in Ex parte Young, 209 U.S. 123 (1908). A suit against a state official to enjoin the enforcement of a state law alleged to be contrary to federal law is not barred by the Eleventh Amendment. Ex parte Young, 209 U.S. at 148-49. Hamamcy's claims do not fall under the exception to the Eleventh Amendment.

AFFIRMED.