

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-60169
Summary Calendar

JAMAL Y. ELHAJ-CHEHADE,

Petitioner,

versus

OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER;
UNIVERSITY OF TEXAS SOUTHWESTERN MEDICAL CENTER,

Respondents.

- - - - -
Petition for Review of an Order of the
Office of the Chief Administrative Hearing Officer
OCAHO No. 98B00068
- - - - -

Consolidated with
No. 99-11112
Summary Calendar

JAMAL Y. ELHAJ-CHEHADE,

Plaintiff-Appellant,

versus

UT SOUTHWESTERN MEDICAL SCHOOL,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:98-CV-1622-P
- - - - -

October 16, 2000

Before HIGGINBOTHAM, BARKSDALE, and WIENER, Circuit Judges.

PER CURIAM:*

In this consolidated appeal, Jamal Y. Elhaj-Chehade has filed a petition for review of an order of the Office of the Chief Administrative Hearing Officer (OCAHO) in No. 99-60169, and he has appealed from the district court's grant of summary judgment in his federal civil complaint. Elhaj-Chehade argues that it was error to hold that his suit against the University of Texas, Southwestern Medical Center (UTSW), was barred by the Eleventh Amendment.

The Eleventh Amendment prohibits a private citizen from bringing suit against a state or one of its agencies in federal court without that state's consent or without congressional abrogation of immunity. Cronen v. Texas Dep't of Human Servs., 977 F.2d 934, 937 (5th Cir. 1992). UTSW is an arm of the State. See Tex. Educ. Code Ann. § 65.02(a)(7) and § 74.101. Elhaj-Chehade has failed to demonstrate that UTSW has unequivocally waived its sovereign immunity, and Congress did not unequivocally abrogate the State's sovereign immunity when it enacted 8 U.S.C. § 1324b. See Hensel v. OCAHO, 38 F.3d 505, 508 (10th Cir. 1994). Accordingly, the petition for review of the OCAHO's decision in No. 99-60169 is DENIED. The judgment of the district court is affirmed in No. 99-11112. All outstanding motions are DENIED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.