

United States Court of Appeals For the First Circuit

No. 23-1013

IMRE KIFOR,

Plaintiff - Appellant,

v.

THE COMMONWEALTH OF MASSACHUSETTS; ANDREA J. CAMPBELL, Attorney General; GEOFFREY SNYDER, Commissioner; MASSACHUSETTS DEPARTMENT OF REVENUE CHILD SUPPORT ENFORCEMENT DIVISION; MIDDLESEX PROBATE AND FAMILY COURT; [REDACTED]; [REDACTED],

Defendants - Appellees.

Before

Kayatta, Howard and Gelpí,
Circuit Judges.

JUDGMENT

Entered: March 20, 2023

Plaintiff-Appellant Imre Kifor appeals from the district court's screening dismissal of his complaint under 28 U.S.C. § 1915(e)(2)(B). Defendants-Appellees Commonwealth of Massachusetts (the "Commonwealth"), Attorney General Andrea J. Campbell, Commissioner Geoffrey Snyder, Middlesex Probate and Family Court (the "Family Court"), and Massachusetts Department of Revenue, Child Support Enforcement Division (the "DOR" and, together with the aforementioned defendants-appellees, the "Commonwealth Defendants") have moved for summary disposition.

Upon de novo review and after careful consideration of the parties' submissions and the relevant portions of the record, we hold that the Eleventh Amendment bars Kifor's 42 U.S.C. §§ 1981 and 1985 claims against the Commonwealth, the DOR, and the Family Court, as well as against Attorney General Campbell and Commissioner Snyder insofar as Kifor seeks monetary damages. See Town of Barnstable v. O'Connor, 786 F.3d 130, 138 (1st Cir. 2015) (describing Eleventh Amendment immunity applicable to states and state agencies); Davidson v. Howe, 749 F.3d 21, 27 (1st Cir. 2014) (explaining that the Eleventh Amendment bars suits for damages against state officials sued in their official capacities); see also Newman v. Lehman Bros. Holdings

Inc., 901 F.3d 19, 25 (1st Cir. 2018) (explaining that we may affirm an order of dismissal on any ground apparent in the record); Johnson v. Rodriguez, 943 F.2d 104, 107 (1st Cir. 1991) (suggesting under prior version of screening statute that all screening dismissals are to be reviewed de novo).

Assuming that Kifor's claims are not barred by the Rooker-Feldman doctrine or Younger abstention, see Sinapi v. R.I. Bd. of Bar Exam'rs, 910 F.3d 544, 550 (1st Cir. 2018) (bypassing a potential Rooker-Feldman issue); Marshall v. Bristol Superior Ct., 753 F.3d 10, 17 (1st Cir. 2014) (same for Younger), we also hold that the complaint fails to state a claim upon which relief may be granted against the Commonwealth Defendants. Contrary to Kifor's argument, he is not an "employee" of the Family Court for purposes of his claim under Title VII of the Civil Rights Act of 1964 ("Title VII"). See Casey v. Dep't of Health & Hum. Servs., 807 F.3d 395, 404-05 (1st Cir. 2015) (describing standard for establishing employment relationship under Title VII). Nor has he plausibly alleged that the Commonwealth Defendants violated 42 U.S.C. §§ 1981 or 1985.

Having reviewed Kifor's opening brief and the record below, we conclude as well that no substantial question is presented in this appeal as to Defendants-Appellees [REDACTED] and [REDACTED]. See 1st Cir. R. 27.0(c). Kifor's complaint fails to state a claim against [REDACTED] and [REDACTED] because he is not an "employee" of the Family Court for purposes of Title VII and because he has not plausibly alleged a violation of 42 U.S.C. §§ 1981 or 1985. Accordingly, the Commonwealth Defendants' motion for summary disposition is granted, and the judgment of the district court is affirmed. See 1st Cir. R. 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:

Imre Kifor
Katherine B. Dirks
Yeatyng Evelyn Tang
Michael G. Xavier