

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

ZACHARY R. E. RUSK,
Plaintiff,

vs.

STATE OF UTAH,
Defendant.

ORDER
AND
MEMORANDUM DECISION

Case No. 2:16-cv-333-TC

The State of Utah has moved to dismiss pro se Plaintiff Zachary Rusk’s complaint based on Eleventh Amendment Sovereign Immunity. (See Mot. to Dismiss with Prejudice, Docket No. 10.) Mr. Rusk brings his case under Title VII of the Civil Rights Act of 1964, as amended, and alleges that the State of Utah Division of Workforce Services has engaged in “tortuous interference acts via discrimination/retaliation.” (Compl. at 3, Docket No. 3.)

The Eleventh Amendment to the United States Constitution bars any suit against a state in federal court unless the state has expressly waived immunity. Edelman v. Jordan, 415 U.S. 651, 663 (1974). Sovereign immunity applies “regardless of the relief sought[.]” Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc., 506 U.S. 139, 146 (1993).

The State of Utah has not waived immunity for civil rights causes of action. See, e.g., Utah Governmental Immunity Act, Utah Code Ann. §§ 63G-7-101 (titled “Scope of waivers and retentions of immunity”), 63G-7-301 (list of waivers does not include waiver for civil rights causes of action) (LexisNexis 2016 Suppl.); Sutton v. Utah State Sch. for Deaf & Blind, 173

F.3d 1226, 1233-34 (10th Cir. 1999). Accordingly, Mr. Rusk's complaint must be dismissed as a matter of law.

The State of Utah's Motion to Dismiss With Prejudice (Docket No. 10) is GRANTED.

SO ORDERED this 24th day of August, 2016.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
U.S. District Court Judge