

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-3254

L. David Ormerod, M.D.,

Appellant,

v.

Curators of the University of Missouri,
Richard L. Wallace,
Jack M. Colwill, M.D., and
John W. Cowden, M.D.,

Appellees.

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Appeal from the United States
District Court for the
Western District of Missouri.

[UNPUBLISHED]

Submitted: March 12, 2004

Filed: May 21, 2004

Before RILEY and MELLOY, Circuit Judges, and ERICKSON,¹ District Judge.

PER CURIAM.

¹The Honorable Ralph R. Erickson, United States District Judge for the District of North Dakota, sitting by designation.

L. David Ormerod (Dr. Ormerod) appeals the dismissal of his civil rights action. The district court² found that his claim was barred by the Eleventh Amendment. We affirm.

We review the grant of summary judgment de novo. Treleven v. Univ. of Minn., 73 F.3d 816, 817 (8th Cir. 1996). We will affirm if the record shows that there is no genuine issue of material fact and that the prevailing party is entitled to judgment as a matter of law. Id. (quoting Maitland v. Univ. of Minn., 43 F.3d 357, 360 (8th Cir. 1994)).

The University of Missouri hired Dr. Ormerod in 1996 as an associate professor of ophthalmology. When the university terminated his employment, he brought a section 1983 suit against the university, Richard Wallace, Jack Colwill, and John Cowden. Wallace is the chancellor for the University of Missouri's Columbia campus, Colwill was the interim dean for the school of medicine, and Cowden chairs the medical school's department of ophthalmology. Dr. Ormerod alleged that his due process rights were violated when the university failed to review his grievances and the university denied him consideration for tenure.

Defendants brought a motion for summary judgment arguing that the Eleventh Amendment to the United States Constitution granted them immunity from this suit seeking monetary damages. The district court noted that previous decisions had established that the University of Missouri-Columbia was entitled to Eleventh Amendment immunity. The court stated that it was unnecessary to evaluate whether the university was still entitled to immunity because Dr. Ormerod had not shown any change in the university's circumstances. The court therefore granted the motion for summary judgment as to the university.

²The Honorable Scott O. Wright, United States District Judge for the Western District of Missouri.

The court also granted summary judgment as to the defendants Wallace, Colwill, and Cowden. The parties agreed that these three defendants were acting at all relevant times as agents of the University of Missouri-Columbia. Dr. Ormerod did not clearly specify in his complaint that he was suing them in their individual capacities. Therefore, these defendants were also entitled to Eleventh Amendment immunity.

For the reasons given in the district court's opinion, we affirm. See 8th Cir. R. 47B.
