

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
FRANKFORT

WESLEY S. ANGLIN,	)	
	)	
Petitioner,	)	Civil No. 3: 13-41-GFVT
	)	
v.	)	
	)	
COMMONWEALTH OF KENTUCKY,	)	<b>MEMORANDUM OPINION</b>
	)	<b>AND ORDER</b>
Respondent.	)	

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Wesley S. Anglin is an inmate incarcerated at the Eastern Kentucky Correctional Complex in West Liberty, Kentucky. Proceeding without counsel, on July 16, 2013, Anglin filed a document styled “Appeal from Supreme Court of Kentucky Case #2013-SC000241-D’s order dated May 14, 2013.” [R. 1] In his “Appeal,” Anglin states that on May 14, 2013, the Kentucky Supreme Court entered an order directing him to pay a \$5.00 filing fee and to file nine additional copies of his motion for discretionary review. The Kentucky Supreme Court later denied both his motion to reconsider and a subsequent “appeal” of that May 14, 2013, order. [R. 1, p. 2] Anglin then initiated this action by filing his “Appeal” in which he asks this Court to enter an order compelling the Kentucky Supreme Court to vacate its order requiring him to pay a \$5.00 filing fee and to provide it with additional copies of his motion. [R. 1, p. 2]

The Court conducts a preliminary review of Anglin’s pleading pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A. A district court must dismiss any claim that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. *McGore v. Wrigglesworth*, 114 F.3d 601, 607-08 (6th Cir.

1997). The Court evaluates Anglin's complaint under a more lenient standard because he is not represented by an attorney. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Burton v. Jones*, 321 F.3d 569, 573 (6th Cir. 2003). At this stage, the Court accepts his factual allegations as true, and his legal claims are liberally construed in his favor. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007).

The Court concludes that Anglin's "Appeal" must be dismissed for failure to state a claim upon which relief may be granted and as legally frivolous. There is no right of appeal from a state supreme court order to a federal district court. A dissatisfied party may seek direct review only by filing a petition for a writ of *certiorari* with the Supreme Court of the United States, 28 U.S.C. § 1257, and an action filed in a federal district court which effectively seeks collateral review of a state court order violates the *Rooker-Feldman* doctrine. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 291 (2005); *In re Cook*, 551 F.3d 542, 548 (6th Cir. 2009); *Berry v. Schmitt*, 688 F.3d 290, 298-300 (6th Cir. 2012).

Anglin's "Appeal" would also fail as a civil rights action under 42 U.S.C. § 1983. Anglin named the Commonwealth of Kentucky as the defendant in this action, but the several States are immune from suit under the Eleventh Amendment. *Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 687-88 (1993) ("Absent waiver, neither a State nor agencies acting under its control may be subject to suit in federal court.") (internal quotation marks and citation omitted). They are also not "persons" subject to suit under § 1983. *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 71 (1989); *Matthews v. Jones*, 35 F.3d 1046, 1049 (6th Cir. 1994). Anglin also fails to articulate any basis in federal law for his sought-after reversal of the Kentucky Supreme Court's order, and his complaint therefore fails to satisfy the minimum

pleading requirements for a civil complaint filed in federal court. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Hill v. Lappin*, 630 F.3d 468, 470 (6th Cir. 2010).

Accordingly, **IT IS ORDERED** that:

1. Anglin's "Appeal" [R. 1] is **DISMISSED WITH PREJUDICE**.
2. The Court shall enter an appropriate judgment.
3. This matter is **STRICKEN** from the active docket.

This the 19th day of December, 2013.



**Signed By:**

Gregory F. Van Tatenhove

A handwritten signature in black ink, appearing to read "G. Van Tatenhove", written over the printed name.

**United States District Judge**