

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

June 30, 2009

No. 08-60895

Summary Calendar

Charles R. Fulbruge III
Clerk

KIM ANTHONY POLONCZYK

Plaintiff-Appellant

v.

CORPORATE STATE OF ARKANSAS; MIKE BEEBE, Governor

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:08-CV-284

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:*

Kim Anthony Polonczyk filed a civil action against the State of Arkansas and Governor Beebe alleging various instances of discrimination and abuse. The district court dismissed the suit as frivolous because, under the Eleventh Amendment, the defendants are immune from such suits where the only relief sought is monetary damages. The district court denied Polonczyk's motion for leave to proceed in forma pauperis (IFP) on appeal after finding that the appeal

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

would be frivolous. Polonczyk now seeks this court's leave to proceed IFP on appeal.

Although Polonczyk asserts generally that the defendants waived their sovereign immunity by accepting federal funds, he fails to assert any facts that demonstrate a specific abrogation of that immunity. Accordingly, he fails to show that he will raise a nonfrivolous issue on appeal. *See Atascadero State Hospital v. Scanlon*, 473 U.S. 234, 246-47 (1985), *superseded by statute*, 42 U.S.C. § 2000d-7; *Hurst v. Texas Dep't of Assistive & Rehab. Servs.*, 482 F.3d 809, 810 (5th Cir. 2007). Polonczyk's IFP motion is denied, and the appeal is dismissed as frivolous. *See Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982); 5TH CIR. R. 42.2.

APPEAL DISMISSED; IFP MOTION DENIED.