

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

SHEILA RENEE RUNKLE,  
Administratrix of the Estate  
of Robert Earl Runkle, Deceased

PLAINTIFF

v.

CIVIL ACTION NO. 3:08-CV-188-S

BECKY W. PANCAKE, et al.

DEFENDANTS

**MEMORANDUM OPINION**

This matter is before the Court upon the motion of defendant Commonwealth of Kentucky, Department of Corrections (“DOC”) to dismiss the claims filed against it by plaintiff Sheila Renee Runkle, Administratrix of the Estate of Robert Earl Runkle, Deceased (“Runkle”) (DN 64). Runkle did not respond to DOC’s motion.

DOC is one of several named defendants in the above-styled action involving allegations of inadequate prison medical care. Runkle alleges claims against DOC under 42 U.S.C. § 1983 based on the Eighth Amendment, Kentucky’s statutory right for prisoners to have health care, medical negligence, outrage, negligence and wrongful death. Runkle argues that DOC is liable for the acts and/or omissions of its employees under the doctrine of *repondeat superior*.

The Court lacks subject matter jurisdiction over Runkle’s claims against DOC, an arm of the Commonwealth of Kentucky,<sup>1</sup> by operation of the Eleventh Amendment to the U.S. Constitution. The Eleventh Amendment precludes a State from being sued in federal court absent that State’s consent to suit or abrogation by Congressional act pursuant to the exercise of a valid Constitutional power. *Welch v. Texas Dept. of Highways and Public. Transp.*, 483 U.S. 468, 472-474, 107 S. Ct.

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<sup>1</sup>Exec. Order No. 2004-730 (July 9, 2004); Ky. Rev. Stat. Ann. § 12.250.

2941, 97 L. Ed. 2d. 389 (1987); *Mixon v. Ohio*, 193 F.3d 389, 397 (6th Cir. 1999). Congress did not intend to abrogate the Eleventh Amendment immunity of the States by the passage of § 1983. *Quern v. Jordan*, 440 U.S. 332, 338-342, 99 S. Ct. 1139 (1979). Kentucky has not waived its immunity from suit in federal court for claims under § 1983. Accordingly, DOC must be dismissed. A separate order will be entered this date in accordance with this opinion.

**IT IS SO ORDERED.**

August 28, 2009



**Charles R. Simpson III, Judge  
United States District Court**