

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

**Ron Wilder,**

**Plaintiff,**

**v.**

**The Ohio State University  
Wexner Medical Center,**

**Defendant.**

**Case No. 2:17-cv-920**

**Judge Michael H. Watson**

**Magistrate Judge Jolson**

**OPINION AND ORDER**


Defendant The Ohio State University Wexner Medical Center (“Defendant”) moves the Court to enter partial judgment on the pleadings as to Count II of Plaintiff Ron Wilder’s (“Plaintiff”) Complaint, in which he alleges age discrimination under the Age Discrimination in Employment Act (“ADEA”). Mot., ECF No. 5.

Here Defendant, as a state university, is considered an instrumentality of the state of Ohio, and as such, is entitled to the same Eleventh Amendment immunity from suit as the state. *Id.* at 3; see *Bailey v. Ohio State Univ.*, 487 F. Supp. 601, 605–06 (S.D. Ohio 1980); see also Ohio Rev. Code Ann. § 3345.011. Defendant contends that “because neither Congress nor the State have abrogated or waived Ohio’s immunity from claims brought [in federal court] under the ADEA,” Plaintiff’s ADEA claim should be dismissed. *Id.* (citing *Kimel v. Florida Bd. of Regents*, 528 U.S. 62 (2000) and *Latham v. Office of the Attorney*

*Gen.*, 395 F.3d 261, 270 (6th Cir. 2005)). Plaintiff does not oppose this motion, as indicated in the Rule 26(f) Report. See Jan. 11, 2018, Rep. 2, ECF No. 7.

Based on the foregoing, the Court finds that Plaintiff's ADEA claim is barred by the Eleventh Amendment. Accordingly, the Court **GRANTS** Defendant's motion and hereby **DISMISSES WITH PREJUDICE** Count II of Plaintiff's Complaint. All other claims in Plaintiff's Complaint remain pending. The Clerk is **DIRECTED** to remove ECF No. 5 from the Court's pending motions list.

**IT IS SO ORDERED.**

  
**MICHAEL H. WATSON, JUDGE**  
**UNITED STATES DISTRICT COURT**