

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DONNA P. BECKNAULD,	:	
	:	
Plaintiff	:	
	:	
vs.	:	CIVIL NO. 1:CV-10-0817
	:	
COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF AGRICULTURE,	:	
Defendant	:	

MEMORANDUM

Plaintiff, Donna P. Becknauld, has filed a complaint against the Commonwealth of Pennsylvania, Department of Agriculture, asserting claims under Title I of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101-12117; and the Family and Medical Leave Act (FMLA), 29 U.S.C. §§ 2601-2654. More specifically, the FMLA claim is under the self-care provision, section 2612(a)(1)(D). Plaintiff alleges she was an employee of the Department who was discriminated against and eventually fired because of two medical conditions. She seeks damages, and while she originally sought injunctive relief as well, has abandoned that claim.

We are considering Defendant’s motion for judgment on the pleadings under Fed. R. Civ. P. 12(c), arguing that the complaint should be dismissed because the Eleventh Amendment bars the exercise of jurisdiction over Defendant. We are also considering Plaintiff’s motion to amend her complaint to bring a claim under the Pennsylvania Human Relations Act (“PHRA”), 43 Pa. St. Ann. §§ 951-963.

We agree with Defendant that the Eleventh Amendment bars our jurisdiction over the ADA claim, *see Bd. of Trustees v. Garrett*, 531 U.S. 356, 360, 121 S.Ct. 955, 960, 148 L.Ed.2d 866 (2001); *Benn v. First Judicial District*, 426 F.3d 233,

238-39 (3d Cir. 2005)(citing *Garrett*), as well as the FMLA claim under the self-care provision. *Chittister v. Dep't of Comty. & Econ. Dev.*, 226 F.3d 223, 227, 229 (3d Cir. 2000); *Banks v. Court of Common Pleas*, 342 F. App'x 818, 821 and n.2 (3d Cir. 2009)(per curiam) (nonprecedential); *Wampler v. Pennsylvania, Dep't of Labor & Indus.*, 508 F. Supp. 2d 416, 418 (M.D. Pa. 2007)(collecting cases).

As for Plaintiff's motion to amend, we will deny it. We need not grant a motion to amend if amendment would be futile. *Phillips v. County of Allegheny*, 515 F.3d 224, 245 (3d Cir. 2008). Amendment would be futile here because, as Defendant points out, the Eleventh Amendment also bars our jurisdiction over the PHRA claim. *Patterson v. PA Office of Inspector General*, 243 F. App'x 695, 696 (3d Cir. 2007)(per curiam)(nonprecedential); *McCartney v. Pa. State Police*, No. 09-1817, 2010 WL 2196429, at *3 (M.D. Pa. May 27, 2010).¹

We will issue an appropriate order.

/s/William W. Caldwell
William W. Caldwell
United States District Judge

Date: September 7, 2010

¹ Of course, Plaintiff is free to file the PHRA claim in state court.

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 COMMONWEALTH OF PENNSYLVANIA :
 DEPARTMENT OF AGRICULTURE, :
 Defendant :

ORDER

AND NOW, this 7th day of September, 2010, it is ordered that:

1. Defendant's motion (doc. 6) for judgment on the pleadings is granted.
2. Plaintiff's complaint is hereby dismissed for lack of jurisdiction over the ADA and FMLA claims set forth therein.
3. Plaintiff's motion (doc. 8) for leave to file an amended complaint is denied for lack of jurisdiction over the PHRA claim sought to be added by amendment.
4. The Clerk of Court shall close this file.

/s/William W. Caldwell
William W. Caldwell
United States District Judge