HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

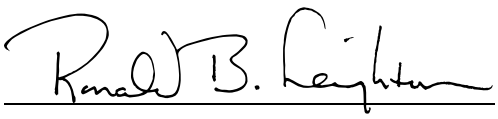
KENT A. OLSON, Plaintiff, v. ROBIN ARNOLD-WILLIAMS, Secretary, Department of Social and Health Services, et al., Defendants.	No. 12-cv-5430-RBL ORDER [Dkts. #6, 10]

On April 15, 2012, Plaintiff filed a Complaint, asserting disability discrimination claims under both state and federal law against the Department of Social and Health Services ("DSHS"), and certain agency officials. (*See* Compl., Dkt. #1.) In response, Defendants moved to dismiss, arguing that Title VII, cited by Plaintiff, does not protect against disability discrimination on its face. Further, Plaintiff's claim under the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq*. (the "ADA"), is barred by the Eleventh Amendment. *Bd. of Trustees of the Univ. of Ala. v. Garrett*, 531 U.S. 356, 360 (2001); *Savage v. Glendale Union High Sch.*, 343 F.3d 1036, 1040 (9th Cir. 2003). And what's more, neither the State nor its agencies are "persons" subject to suit under § 1983. *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71 (1998). Lastly, Defendants argue that the remaining state law claims are also barred from federal court under the Eleventh Amendment. *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 120 (1984).

Plaintiff did not respond. Rather, he simply filed an Amended Complaint. (*See* Am. Compl, Dkt. #7). Defendants again moved to dismiss. (Defs'. Mot. to Dismiss, Dkt. #10.) Plaintiff has not responded.

Under Local Rule 7(b)(2), a failure to file papers in opposition to a motion "may be considered by the court as an admission that the motion has merit." Here, the Court considers Plaintiff's silence an admission that Defendants' motion has merit. The motion is therefore **GRANTED** for the reasons stated above, and the case dismissed with prejudice.

Dated this 24th day of July 2012.



Ronald B. Leighton
United States District Judge