

**NOT PRECEDENTIAL**

UNITED STATES DISTRICT COURT  
FOR THE THIRD CIRCUIT

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No. 01-3937

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ELISA E. KREIGER,  
Appellant

v.

PENNSYLVANIA OFFICE OF THE ATTORNEY GENERAL

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On Appeal from the United States District Court  
for the Middle District of Pennsylvania  
Civil Action No. 00-cv-02094  
Honorable J. Andrew Smyser, U.S. Magistrate Judge

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Submitted Under Third Circuit LAR 34.1(a)  
July 12, 2002

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Before: SCIRICA and GREENBERG, Circuit Judges, and FULLAM, District Judge\*

(Filed: July 25, 2002)

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\*Honorable John P. Fullam, Senior Judge of the United States District Court for the Eastern District of Pennsylvania, sitting by designation.

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OPINION OF THE COURT

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PER CURIAM:

Appellant sued her former employer, the Pennsylvania Office of the Attorney General, for violating her rights under the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101, *et seq.*, and the Family and Medical Leave Act (“FMLA”), 29 U.S.C. § 2601, *et seq.*, and for causing her emotional distress by terminating her employment. The magistrate judge to whom the case was assigned with the consent of the parties granted the defendant’s motion to dismiss, because the Office of Attorney General is an agency of the Commonwealth of Pennsylvania, 71 P.S. § 732-201, and is immune from suit in federal court by reason of the Eleventh Amendment of the United States Constitution. This appeal followed.

It is clear that the magistrate judge was correct. The United States Supreme Court has squarely held that the ADA did not validly abrogate the Eleventh Amendment immunity of states and their agencies. *Board of Trustees of the University of Alabama v. Garrett*, 521 U.S. 356, 121 S.Ct. 55 (2001). *See also, Lavia v. Commonwealth of Pennsylvania*, 224 F.3d 190 (3d Cir. 2000). Plaintiff contends that the *Garrett* decision is “unconstitutional” and should be reconsidered. Needless to say, this court has no authority to overrule a decision of the United States Supreme Court.

Appellant concedes that her claim under FMLA is barred by the Eleventh

Amendment, as this court decided in *Chittister v. Department of Community & Econ. Development*, 226 F.3d 223 (3d Cir. 2000).

Plaintiff further argues that she should be permitted to pursue claims for equitable relief. This, too, is an erroneous view of the law. The Eleventh Amendment bars claims against state agencies “regardless of the nature of the relief sought.”

*Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89, 100 (1984); *see also Puerto Rico Aqueduct & Sewer Authority v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 146 (1993).

The judgment appealed from will be affirmed.

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TO THE CLERK:

Please file the foregoing opinion.

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District Judge