



## **Tavares v. Massachusetts Department of Unemployment Assistance (DUA)**

2022 | Cited 0 times | D. Massachusetts | April 6, 2022

UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

ELIZABETH TAVARES, Plaintiff, v. MASSACHUETTS DEPARTMENT OF UNEMPLOYMENT ASSISTANCE, Defendant.

Civil Action No. 22-cv-10067-AK

ORDER A. KELLEY, D.J. Pro se plaintiff Elizabeth Tavares brings this action against the Massachusetts Department of Unemployment Assistance (“MDUA”), alleging that the agency wrongfully denied her unemployment compensation for the period of September 2020 through August 2021. Tavares states that she was unable to work during this time because she was “considered high - risk during COVID (medical issues).” [Dkt. 1 at 5]. She does not seek relief other than unemployment benefits for September 2020 through August 2021. Tavares also filed a motion for leave to proceed in forma pauperis. Upon review of the complaint, the Court concludes that does not have jurisdiction over this matter. The Eleventh Amendment of the United States Constitution is generally recognized as a bar to suits in federal courts against a State, its departments, and its agencies, unless the State has consented to suit or Congress has overridden the State’s immunity. See *Regents of the Univ. of Cal. v. Doe*, 519 U.S. 425, 429 (1997); *Kentucky v. Graham*, 473 U.S. 159, 167 n.14

(1985); *Alabama v. Pugh*, 438 U.S. 781, 782 (1978) (per curiam); *Hudson Sav. Bank v. Austin*, 479 F.3d 102, 105-06 (1st Cir. 2007). Here, the Court cannot discern any claim for relief against the MDUA for which the Commonwealth of Massachusetts has waived its immunity or for which Congress has overridden the state’s immunity. Under M.G.L. ch. 151A, § 42, a person seeking judicial review of an administrative decision denying unemployment compensation must file a civil action in a state district court. In enacting this statute, the legislature of the Commonwealth of Massachusetts gave state district courts, not federal district courts, jurisdiction to review the decisions of the defendant. Accordingly, this action is DISMISSED without prejudice for lack of jurisdiction. Judicial review of the MDUA’s decision may only be had in a state court. The in forma pauperis motion shall be terminated as moot and no filing fee is assessed.

IT IS SO ORDERED. /s/ Angel Kelley

Hon. Angel Kelley United States District Court Dated: April 6, 2022

