

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CARL R. POWER,)
)
 Plaintiff,) C.A. No. 02-169-GMS
)
 v.)
)
 DEPARTMENT OF LABOR and)
 PYRAMID TEMPORARY SERVICES,)
)
 Defendants.)

MEMORANDUM AND ORDER

I. INTRODUCTION

Carl Power (“Power”) filed this *pro se* action on March 8, 2002. This is the third case that he has filed with the court to challenge the events surrounding the denial of his unemployment benefits. In this complaint, he apparently seeks monetary redress for what he alleges are violations of his constitutional rights. Specifically, he claims that the Delaware Department of Labor (the “Department of Labor”) and Pyramid Temporary Services (“Pyramid”) caused him to lose several jobs, his pension, and his health insurance. He further claims that the Delaware state courts “lied” and violated his right to a jury trial.

Presently before the court are Power’s motion for recusal, Pyramid’s motion to dismiss, and the Department of Labor’s motion to dismiss. The court will discuss each in turn.

II. DISCUSSION

A. Motion to Recuse

Power asks the court to recuse itself from the present case because of the court’s prior involvement in two of his earlier cases. The court will deny this motion.

Federal judges are not required to recuse themselves from matters simply because they

presided over an earlier matter involving the same party. *See United States v. Liteky*, 973 F.2d 910, 910 (11th Cir. 1992). Nor are federal judges required to recuse themselves simply because they made a ruling which a party dislikes. *See Jaffree v. Wallace*, 837 F.2d 1461, 1465 (11th Cir. 1988) (stating that a party must show more than a disagreement with the judge's judicial philosophy).

The only purported basis for Power's present motion is that the court has already adversely decided two of Power's previous cases. This does not warrant the court's recusal. *See id.* Consequently, Power's motion to recuse will be denied.

B. Pyramid's Motion to Dismiss

As an initial matter, the court notes that Power has essentially re-filed a case the court dismissed in its April 25, 2000 Memorandum Opinion. *See Power v. Lee*, No. 99-544 (D. Del. April 25, 2000).¹ On January 31, 2002, the court further denied his motion for reconsideration. The doctrine of collateral estoppel clearly precludes Power from repeatedly bringing new cases to litigate the same events and issues surrounding his loss of employment and the alleged wrongs flowing therefrom. *See Power v. Lee*, No. 99-544 (D. Del. April 25, 2000); *see also Lloyd v. Jefferson*, 53 F. Supp. 2d 643, 684 (D Del. 1999). For this reason alone, his present case must be dismissed.

Moreover, even were Power's claims not barred by collateral estoppel, Pyramid correctly notes in its motion to dismiss that Power's present case is an attempt to further appeal the decision of the Unemployment Insurance Appeal Board ("UIAB"). That decision has already been affirmed by the Delaware Superior Court and the Delaware Supreme Court. *See Power v. Myriad Servs. Inc.*, 687 A.2d 573 (Del. Supr. 1996) (affirming the Superior Court's judgment). Accordingly, the court

¹On October 1, 2001, Power appealed this decision to the Third Circuit Court of Appeals.

concludes that it is barred from entertaining this matter under the *Rooker-Feldman* doctrine. *See District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 486 (1983) (explaining that federal courts should not entertain challenges to a state court decision, “even if those challenges allege[] that the state court actions were [themselves] unconstitutional.”), *see also Brooks-Jones v. Jones*, 916 F. Supp. 280, 281 (S.D.N.Y. 1996) (noting that, “[a] plaintiff may not seek a reversal of a state court simply by casting [the] complaint in the form of a civil rights action.”).

Under *Rooker-Feldman*, the court cannot sit as an appellate tribunal which reviews the decisions of state courts. *See Logan v. Little*, 965 F. Supp. 695, 697 (E.D. Pa. 1997). Nor can this court entertain a federal constitutional challenge which is “inextricably intertwined” with a state court judgment. *See id.* A federal constitutional claim is “inextricably intertwined” with a state court decision when it is so closely related to the state court judgment that evaluating the alleged constitutional violation would essentially require the court to review the state court decision itself. *See Brooks-Jones*, 916 F. Supp. at 281.

Here, Power alleges that Pyramid caused him to lose several jobs, his pension, and his health insurance. He further alleges that the UIAB, the Delaware Superior Court, and the Delaware Supreme Court based their decisions on “lies they themselves fabricated.” Specifically, he claims that the Delaware state courts did not “understand or comprehend the union laws and rules[.]” However, *Rooker-Feldman* expressly prohibits the court from placing itself above the Delaware state courts and conducting an appellate review of the prior ruling. *See Feldman*, 460 U.S. 486.² For

²To the extent that Power also claims his Seventh Amendment right to a jury trial was violated, this argument must also fail. The Seventh Amendment only confers the right to a jury trial in federal, not state, proceedings. *See Elliot v. City of Wheat Ridge*, 49 F.3d 1458, 1459-60 (6th Cir. 1995).

these reasons, Power's claims against Pyramid must fail.

C. The Department of Labor's Motion to Dismiss

Additionally, Power's claims against the Department of Labor must fail because the Department of Labor is entitled to sovereign immunity.

In its April 25, 2000 Memorandum Opinion disposing of Power's second case, the court held that the Department of Labor was an arm of the State of Delaware. *See Power v. Lee*, No. 99-544, slip. op. at 9 (D. Del. April 25, 2000) (citing *Phipps v. New York State Dept. of Labor*, 53 F. Supp. 2d 551, 558 (N.D.N.Y. 1999), *Radeschi v. Commonwealth of Pennsylvania*, 846 F. Supp. 416, 418 (W.D. Pa. 1983)). The court therefore concluded that, as an arm of the State of Delaware, the Department of Labor was protected by sovereign immunity. *See id.* Likewise, in the present case, there can be no dispute that the Department of Labor is entitled to Eleventh Amendment immunity from suit. Consequently, the court lacks subject matter jurisdiction over Power's dispute with the Department of Labor.

III. CONCLUSION

For these reasons, IT IS HEREBY ORDERED that:

1. Power's motion to recuse (D.I. 8) is DENIED.
2. The Department of Labor's motion to dismiss (D.I. 7) is GRANTED.
3. Pyramid's motion to dismiss (D.I. 9) is GRANTED.

Date: May 3, 2002

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE