

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

May 15, 2003

Before

Hon. Joel M. Flaum, *Chief Judge*

Hon. Harlington Wood, Jr., *Circuit Judge*

Hon. Daniel A. Manion, *Circuit Judge*

No. 01-3648

John Doe and Jane Doe, et al.,
Plaintiffs-Appellants,

v.

Carla Heck, et al,
Defendants-Appellees.

Appeal from the United States District
Court for the Eastern District
of Wisconsin

No. 99 C 907

J. P. Stadtmueller, *Judge.*

ORDER

The opinion of this court issued on April 16, 2003 is amended as follows:

Replace the text of fn. 13 with the following:

To the extent the plaintiffs' suit against the defendants in their official capacities with the Bureau seeks retrospective monetary damages, this action constitutes a suit against the state that is prohibited by the Eleventh Amendment. *Wynn v. Southward*, 251 F.3d 588, 592 (7th Cir. 2001). This aspect of the plaintiffs' suit is, therefore, dismissed. *See Higgins v. Mississippi*, 217 F.3d 951, 954 (7th Cir. 2000) (though this court need not raise Eleventh Amendment immunity sua sponte, since it does not implicate subject matter jurisdiction, it may do so).

On April 30, 2003 the appellees filed a petition for rehearing. All of the judges on the original panel voted to deny the petition. The petition is therefore DENIED.