

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10898
Conference Calendar

ANDREW JAMES DEARDORFF,

Plaintiff-Appellant,

versus

JOHN SHARP, Texas State Comptroller,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:96-CV-031-A

- - - - -
February 21, 1997

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:*

Andrew James Deardorff appeals the dismissal of his lawsuit against Texas State Comptroller John Sharp seeking monetary, injunctive, and declaratory relief. The Eleventh Amendment bars Deardorff's claim for reimbursement of witness expenses because his claim would "impose a liability which must be paid from public funds in the state treasury." Edelman v. Jordan, 415 U.S. 651, 663, 668, 678 (1974). Deardorff lacks standing to seek injunctive or declaratory relief as to the constitutionality of

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

TEX. CRIM. PROC. CODE ANN. art. 24.16 because he has failed to establish that he is threatened with "either continuing harm or a real and immediate threat of repeated injury in the future." See Society of Separationists, Inc. v. Herman, 959 F.2d 1283, 1285 (5th Cir.) (en banc), cert. denied, 113 S. Ct. 191 (1992).

AFFIRMED.