

App. 10

NOT RECOMMENDED FOR
FULL-TEXT PUBLICATION

No. 98-6730

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

GEORGE LANE and
BEVERLY JONES,
Plaintiffs-Appellees,

v.

STATE OF TENNESSEE,
et al.,
Defendants-Appellants.

ON APPEAL FROM THE
UNITED STATES
DISTRICT COURT FOR
THE MIDDLE DISTRICT
OF TENNESSEE

NOT RECOMMENDED
FOR FULL-TEXT
PUBLICATION

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(Filed Jul. 16, 2002)

BEFORE: MARTIN, Chief Circuit Judge, SUHRHEINRICH and SILER, Circuit Judges

PER CURIAM. Plaintiffs are paraplegics who sued the State of Tennessee under Title II of the Americans with Disabilities Act because they were unable to access the second floors of many county courthouses in the state.

Tennessee filed a motion to dismiss, claiming Eleventh Amendment Immunity. The district court denied the motion and Tennessee appealed.

In *Popovich v. Cuyahoga County Court of Common Pleas*, 276 F.3d 808, 816-18 (6th Cir. 2002), this court held that the Eleventh Amendment does not bar Title II claims against state entities that are based on Fourteenth Amendment due process principles. *See also Trustees of University of Alabama v. Garrett*, 531 U.S. 356, 121 S.Ct. 955, 148 L.Ed.2d 866 (2001). Because plaintiffs' Title II claim is based on such due process principles, we AFFIRM the district court's denial of Tennessee's motion to dismiss and REMAND this case for further proceedings consistent with *Popovich*.
