

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 96-2895SI

Clifford Daniel Raper, and All Other *
Similarly Situated Employees, *

Appellants, *

v. *

State of Iowa; Iowa Department of *
Public Safety, *

Appellees. *

John M. Varnum, Larry W. Pottridge, *
and All Other Similarly Situated *
Employees, *

Appellants, *

v. *

State of Iowa; Iowa Department of *
Transportation, *

Appellees. *

Clinton Phillips, Kurt Gunther, Larry *
Farrington, Steve Faber, Richard Rewis, *
and All Other Similarly Situated *

Appeals from the United States
District Court for the Southern
District of Iowa.

employment practices of various state agencies for lack of subject-matter jurisdiction.

See Raper v. Iowa, 940 F. Supp. 1421, 1423-27 (S.D. Iowa 1996). In Seminole Tribe, the Supreme Court concluded that Congress lacks the power to abrogate a state's Eleventh Amendment immunity when it enacts legislation under the Interstate Commerce Clause. See 116 S. Ct. at 1126-28; see also Moad v. Arkansas State Police Dep't, 111 F.3d 585, 586-87 (8th Cir. 1997) (state employees' FLSA action seeking unpaid overtime was not authorized by the Commerce Clause). On appeal, the employees argue the district court failed to recognize that Congress could have revoked the state's sovereign immunity from their FLSA lawsuits under the enforcement power of the Fourteenth Amendment. Like the Sixth Circuit in Wilson-Jones v. Caviness, 99 F.3d 203, 208-11 (6th Cir. 1996), modified on other grounds, 107 F.3d 358 (6th Cir. 1997) (per curiam), we reject the employees' argument because the FLSA's overtime provisions cannot be regarded as serving a Fourteenth Amendment purpose, see id. at 210. Although beyond the scope of the issues in these consolidated appeals, we nevertheless make clear that we leave for another day the issue of whether the Fourteenth Amendment gives Congress the power to override a state's Eleventh Amendment immunity for violations of the FLSA's equal pay provisions. See Timmer v. Michigan Dep't of Commerce, 104 F.3d 833, 842 (6th Cir. 1997).

We thus affirm the judgment of the district court.

A true copy.

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