



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

GORDON WARREN EPPERLY,)
)
Plaintiff,)
)
vs.)
)
JOHN W. CARLIN, ARCHIVIST OF THE)
UNITED STATES,)
)
Defendant.)

No. J97-0025-CV (HRH)

ORDER
Motion to Dismiss

Petitioner is Gordon Warren Epperly. Respondent is John W. Carlin, Archivist of the United States. Petitioner submits a petition in the nature of a writ of mandamus. He requests this court to order the archivist to determine whether the Fourteenth and Fifteenth Amendments were validly ratified. In the alternative, he wishes this court to declare which officer or department is responsible for investigating the validity of the ratification of these amendments. Respondent moves to dismiss this complaint and petitioner moves for judgment on the pleadings. Both motions are opposed and oral argument is not requested nor deemed necessary.

Respondent submits that the petitioner's complaint must be dismissed because: (1) the archivist is not authorized to investigate the validity of the states' ratification of amendments to the United States Constitution; (2) petitioner seeks to compel relief outside the scope of mandamus; (3) declaratory judgment on which officer or department has authority to investigate the ratification of the Fourteenth Amendment is a non-justiciable political question;

and (4) the United States has not waived sovereign immunity.

For the reasons and upon the authorities set forth in respondent's motion, respondent's motion to dismiss is granted. The petitioner's motion for judgment on the pleadings is denied. The clerk of court shall enter judgment dismissing the petition for lack of jurisdiction.

DATED at Anchorage, Alaska, this 3 day of March, 1998.

/s/ H. Russel Holland

H. Russel Holland, Judge
District of Alaska