

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Christopher Roller,

Civil File No. 07-1296 JRT/FLN

Plaintiff,


vs.

The James Randi Educational
Foundation, Inc.; et al.,

Defendants.

**MEMORANDUM OF LAW
OF DEFENDANT STATE
OF MINNESOTA IN
OPPOSITION TO PLAINTIFF'S
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Plaintiff Christopher Roller has brought a baseless motion for partial summary judgment against the State of Minnesota. Docket # 68.¹ Roller does not seek summary judgment against the State on his patent infringement claim, which is the sole claim that his amended complaint asserts against the State and which the State has moved to dismiss. Rather, Roller seeks summary judgment against the State based on allegations that Redwood Falls police officer Derek Woodford and Burnsville police officer Beverly Price tried to kill him. *See* Docket # 68, 69; Docket # 14 (amended complaint, to which supplemental complaint against the State is attached).

 Roller's motion for summary judgment against the State fails as a matter of law.

The two police officers whom Roller claims tried to kill him are not named as Defendants

and are municipal police officers, not State officers. Even if these two officers were

named as Defendants and were state employees, the Eleventh Amendment would bar a

¹ Roller has not yet scheduled a hearing on his motion, contrary to the Court's order of reference. Docket # 73.

civil rights claim against the State based on alleged actions of these officers. The Eleventh Amendment bar against suing the State in federal court applies regardless of the nature of the relief sought, *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100-02, 104 S. Ct. 900, 908-09 (1984), and has not been abrogated for federal civil rights claims. *Quern v. Jordan*, 440 U.S. 332, 338-45, 99 S. Ct. 1139, 1144-47 (1979).

Accordingly, the Court should deny Roller's motion for partial summary judgment against the State.

Dated: August 22, 2007

Respectfully submitted,

s/ John S. Garry

John S. Garry

Bar Number 208899

Lori Swanson

Attorney General

State of Minnesota

Attorneys for Defendant State of Minnesota

445 Minnesota Street, Suite 1100

St. Paul, MN 55101-2128

Telephone: (651) 282-5719

Fax: (651) 282-5832

AG: #1852767-v1