

STATE OF VERMONT
WASHINGTON COUNTY

FILED
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Joseph Perreault, Administrator of the)
Estate of Samantha Perreault)
Plaintiff,)
v.)
Vermont Commissioner of)
Public Safety, et al.,)
Defendant.)

Washington Superior Court
Docket No. 416-6-07 Wney

SUPERIOR COURT
WASHINGTON COUNTY

ENTRY

The State has filed a motion to dismiss Kerry Sleeper, Vermont Commissioner of Public Safety, from this case arguing that he is immune from suit in his individual capacity, and to dismiss the State itself on sovereign immunity grounds.

The complaint generally describes that the actions or inactions of various representatives of Vermont government following the tragic death of his daughter have compounded his grief, may be tortious, and may amount to violations of court orders.

There is no specific allegation against Mr. Sleeper in his individual capacity and it is not clear that Plaintiff intends to raise any such claim. In any event, to the extent that there is such a claim, immunity appears to apply. See *Czechorowski v. State*, 2005 VT 40, ¶ 11 (describing absolute and qualified immunity).

The court is more circumspect about the State's sovereign immunity argument at this stage of the case. The court cannot fairly rule on the sovereign immunity issue without a clear understanding of the legal claims that Mr. Perreault is trying to raise, or at least the body of facts generally intended to support those claims. Currently, the complaint is too vague for the court to understand the claims. Discovery as well as motions for a more definite statement and to dismiss for failure to state a claim are available to clarify the claims and create a record sufficient for a ruling on sovereign immunity or other grounds.

For the foregoing reasons, the motion to dismiss is GRANTED with regard to Mr. Sleeper in his individual capacity and DENIED with regard to the State itself.

Dated at Montpelier, Vermont this 31st day of August 2007.

Mary Miles Teachout
Mary Miles Teachout
Superior Court Judge