

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
CIVIL NO. 05-2177 JRT/FLN

CHRISTOPHER ROLLER,)	
)	
Plaintiff,)	
)	
v.)	FEDERAL DEFENDANTS’
)	RESPONSE TO MOTION
GEORGE BUSH ADMINISTRATION, C/O)	FOR LEAVE TO AMEND
GEORGE W. BUSH, RICHARD B. CHENEY,)	COMPLAINT
DONALD H. RUMSFELD, and)	
JOHN DAVID ASHCROFT,)	
)	
Defendants.)	

The Federal Defendants answered Plaintiff’s complaint on March 22, 2006. On the same date, the Federal Defendants filed and served their Motion to Dismiss. On April 10, 2006, Plaintiff filed his one page Motion For Leave to Amend Complaint. Plaintiff’s motion should be denied.

Fed. R. Civ. P. 15(a) provides that when more than 20 days have passed or a responsive pleading has been served, “a party may amend the party’s pleading only by leave of court or by written consent of the adverse party”.

In this instance, the Federal Defendants filed an Answer, a responsive pleading on March 22, 2006. The Defendants have moved to dismiss Plaintiff’s complaint. Permitting Plaintiff to amend his complaint at this juncture is prejudicial to the Defendants. On the face of the complaint, there is no jurisdictional basis for suit against the Federal Defendants. Thus it is axiomatic that in short order the case naming the Federal Defendants’ must be dismissed

and the threat of litigation and the expenditure of litigation funds to defend against the suit will be appropriately curtailed.

Even if Plaintiff were permitted to amend his complaint, the requested amendment would prove futile against Defendants' Motion to Dismiss, as neither the existing complaint, nor the proposed amendments to the complaint set forth cognizable claims against the Defendants. Nor, can Plaintiff overcome his service defects and the immunity or other defenses of the Defendants through amendment of his complaint.

Consequently, Plaintiff's Motion for Leave to Amend must be denied.

Dated: 4-18-06

RACHEL K. PAULOSE
United States Attorney

s/Patricia R. Cangemi

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