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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-910**

Steven G. Mlnarik,
Appellant,

vs.

City of Minnetrista,
Respondent.

**Filed February 2, 2010
Affirmed
Toussaint, Chief Judge**

Hennepin County District Court
File No. 27-CV-08-18312

Steven G. Mlnarik, Mound, Minnesota (pro se appellant)

Jason M. Hiveley, Andrea B. Wing, Iverson Reuvers, Bloomington, Minnesota (for respondent)

Considered and decided by Stauber, Presiding Judge; Toussaint, Chief Judge; and Crippen, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

TOUSSAINT, Chief Judge

Appellant Steven G. Mlnarik challenges the summary judgment granted to respondent City of Minnetrista, arguing that the impounding of his motorcycle was a violation of his right under the Minnesota Constitution to be free from unreasonable seizures. Because no private right of action for state constitutional violations exists, appellant fails to state a claim on which relief can be granted, and we affirm the summary judgment.

DECISION

Respondent's police officer stopped appellant and impounded his motorcycle; he retrieved it the next day. He later brought this action, alleging that the impounding violated his right under the Minnesota Constitution to be free from unreasonable seizures.¹ *See* Minn. Const. art. I, § 10. Respondent moved successfully for summary judgment. In reviewing a summary judgment, this court asks whether there are any genuine issues of material fact and whether the district court erred in its application of the law. *State by Cooper v. French*, 460 N.W.2d 2, 4 (Minn. 1990).

We agree with the district court that “[n]o private cause of action for a violation of the Minnesota constitution has yet been recognized. . . .Therefore, [appellant]’s complaint fails to state a claim” “[T]here is no private cause of action for violations of the Minnesota Constitution.” *Guite v. Wright*, 976 F. Supp. 866, 871 (D. Minn. 1997), *aff’d*

¹ Appellant also alleged claims for wrongful alteration of the video tapes of the incident and mental anguish; these claims were dismissed with prejudice on respondent’s motion.

on other grounds, 147 F.3d 747 (8th Cir. 1998); *see also Ben Oehrleins, Inc. v. Hennepin County*, 922 F. Supp. 1396, 1400 (D. Minn. 1996) (“Minnesota does not recognize a damage remedy for violations of Art. 1, § 7 of the Minnesota Constitution.”), *rev’d on other grounds*, 115 F.3d 1372 (8th Cir. 1997); *Bird v. State Dept. of Pub. Safety*, 375 N.W.2d 36, 40 (Minn. App. 1985). It is not the function of this court to establish new causes of action. *Stubbs v. N. Mem’l Med. Ctr.*, 448 N.W.2d 78, 81 (Minn. App. 1989), *review denied* (Minn. Jan. 12, 1990). We see no error in the determination that appellant failed to state a claim or in the summary judgment based on that determination.²

Affirmed.

² Because our affirmance renders them moot, we do not address the deficiencies in appellant’s appeal, the legality of the impounding of his motorcycle, or the vicarious official immunity claimed by respondent.