

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

REUBEN D. LEHMANN,

Plaintiff,

v.

STATE OF IDAHO

Defendant.

Case No. 1:11-CV-526-BLW

**MEMORANDUM DECISION  
AND ORDER**

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**INTRODUCTION**

Magistrate Judge Bush granted plaintiff's application to proceed without payment of fees and reassigned the case to this Court for its initial review. For the reasons explained below, the Court will require plaintiff to amend his complaint.

**ANALYSIS**

The Court is required to screen complaints brought by litigants who seek in forma pauperis status. *See* 28 U.S.C. § 1915(e)(2). A complaint or portion thereof should be dismissed if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. *See* 28 U.S.C. § 1915(e)(2)(B)(i-iii).

During this initial review, courts generally construe pro se pleadings liberally, giving pro se plaintiffs the benefit of any doubt. *See Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). Additionally, if amending the complaint would remedy the deficiencies,

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plaintiffs should be notified and provided an opportunity to amend. *See Jackson v. Carey*, 353 F.3d 750, 758 (9th Cir. 2003).

It appears that plaintiff Lehmann is attempting in this case to “appeal” from a decision issued by an Idaho state district court after Lehmann appealed a magistrate judge’s entry of judgment against him in criminal proceedings for driving without privileges. *See Motion for Judicial Review (Dkt. No. 1-2)* at p. 2.<sup>1</sup> See Idaho Crim. R. 54.2 (stating that “[a]ll appeals from the magistrate’s division shall be heard by the district court as an appellate proceeding unless the district court orders a trial de novo”); Idaho Crim. R. 54.17. A jury returned a guilty verdict on December 16, 2010 and, that same day, the state magistrate judge entered judgment, imposing a fine and fees of \$252.50 and two days in jail with two days suspended.

Lehmann appealed to the state district court and his appeal was dismissed on May 20, 2011. He then appealed to the Idaho Supreme Court, and that appeal also was dismissed.

Lehmann now asserts that he now has a right to appeal the Idaho courts’ decisions to the United States District Court, *see Motion for Judicial Review (Dkt. No. 1-2)* at p. 3, and also mentions an appeal pursuant to Rule 3.1 of the United States Court of Appeals for the Ninth Circuit (Dkt. 1, p. 1). However, Lehmann cites no authority for appealing a state district court decision in federal court, nor is there such authority. If this case is an

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<sup>1</sup> Although Lehmann did not file a document titled “Complaint”, the Court will review the document he filed to initiate this case, i.e., “Motion for Judicial Review” under the same standards.

appeal it must be dismissed. However, it may be that Lehmann is attempting to bring a new case and not an appeal in this Court.

The Court will accordingly grant Lehmann the right to file an amended complaint. Lehmann must file that amended complaint within fourteen (14) days from the date of this Order. If that deadline is not complied with, the case will be dismissed. If the deadline is followed, the Court will review the amended complaint and determine if the action is an appeal that must be dismissed or a new case that may proceed.

### **ORDER**

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, the plaintiff Lehmann file his amended complaint within fourteen (14) days from the date of this Order or the case will be dismissed.

IT IS FURTHER ORDERED, that if the amended complaint is timely filed, the Court shall review it to determine if this is an appeal that must be dismissed or a new case that may proceed.



DATED: **June 11, 2012**

A handwritten signature in black ink that reads "B. Lynn Winmill".

Honorable B. Lynn Winmill  
Chief U. S. District Judge



DATED: **June 11, 2012**

*B. Lynn Winmill*

Honorable B. Lynn Winmill  
Chief U. S. District Judge