

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 11-2485

Michael Bauermeister,

Appellant,

v.

Kor Xiong, President of Hmong
Satellite TV, Inc.,

Appellee.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: September 16, 2011

Filed: September 21, 2011

Before MURPHY, ARNOLD, and BENTON, Circuit Judges.

PER CURIAM.

Michael Bauermeister appeals the district court's¹ 28 U.S.C. § 1915(e)(2)(B) dismissal of his complaint, in which he requested that criminal charges be brought against the defendant. Upon careful review, we conclude that the dismissal was proper. See United States v. Batchelder, 442 U.S. 114, 124 (1979) (“[w]hether to prosecute and what charges to file or bring before a grand jury are decisions that generally rest in the prosecutor’s discretion”); cf. Koll v. Wayzata State Bank,

¹The Honorable Laurie Smith Camp, United States District Judge for the District of Nebraska.

397 F.2d 124, 127 (8th Cir. 1968) (affirming dismissal where plaintiff failed to plead intelligible grounds for federal jurisdiction; basis for federal jurisdiction must affirmatively appear clearly and distinctly). We further conclude that, to the extent Mr. Bauermeister has attempted to advance a new claim on appeal, that claim is not properly before this court. See Stone v. Harry, 364 F. 3d 912, 914 (8th Cir. 2001) (stating general rule that claims not presented in district court may not be advanced for first time on appeal).

Accordingly, we affirm. See 8th Cir. R. 47B.
