

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

PIERRE TSHISHIMBI-BASHALE,

Plaintiff,

v.

CITY OF BOISE

For the State of Idaho and the neighbors at
Wildwood

Defendants.

Case No. 1:17-CV-375-BLW

**MEMORANDUM DECISION
AND ORDER**

INTRODUCTION

The Court has before it plaintiff's application to proceed without payment of fees. For the reasons explained below, the Court will deny the application and dismiss this case.

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). Plaintiff's Complaint, or a portion thereof, will 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). To state a claim upon which relief can be granted, plaintiff's Complaint must include facts sufficient to show a plausible claim

for relief. *See Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009). 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, plaintiffs should be notified and provided an opportunity to amend. *See Jackson v. Carey*, 353 F.3d 750, 758 (9th Cir. 2003).

In this case, plaintiff complains about the defendant City of Boise “mystically causing damages to his car at the Wildwood apartment building where he lives. He describes the damage as follows:

I was driving slowly at 10 mile/h on my way at work. At the time I riched the pan searer lid of the canal. I heard a loud voice on my passenger side a blow up of the tire as the sound of tornado and the damage of my right panal left panal is car completely damage. I, at that time, called the police because I was unable to make the panal ripped off or couldn't make my vehicle move at all.

Read liberally, plaintiff’s complaint seeks compensation from the City of Boise for damage to his car. There is no diversity and no federal question alleged, and it does not appear that any amendment could save these jurisdictional defects. After a detailed review, Magistrate Judge Dale reached these same conclusions and recommended that the action be dismissed. *See Initial Review Order (Dkt. No. 5)*. The Court finds her decision to be well-written and will adopt it as the decision of this Court. Accordingly, the Court will order that this action be dismissed.

ORDER

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, that the Initial Review Order (docket no. 5) is hereby ADOPTED as the decision of this Court.

IT IS FURTHER ORDERED, that this action be DISMISSED WITH PREJUDICE pursuant to 28 U.S.C. § 1915(e)(2)(B)(i-iii), without leave to amend.

IT IS FURTHER ORDERED, that the Petition to Proceed in Forma Pauperis (docket no. 1) is DEEMED MOOT.

IT IS FURTHER ORDERED, that the Clerk close this case.



DATED: October 2, 2017

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

B. Lynn Winmill
Chief Judge
United States District Court