

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

Troy A. Roper,	)	
	)	
Plaintiff,	)	Case No. 15 C 50023
	)	
vs.	)	
	)	
Helen Fitzgerald, et al.,	)	
	)	Judge Philip G. Reinhard
Defendants.	)	

**ORDER**

Fitzgerald’s motion to dismiss [5] is granted. The claim against Fitzgerald is dismissed for lack of subject matter jurisdiction. The court declines to exercise supplemental jurisdiction over the remaining claims against the remaining defendants. These claims are remanded to the Circuit Court for the 17<sup>th</sup> Judicial Circuit, Winnebago County, Illinois. Plaintiff’s motion [12] for appointment of counsel is denied. This case is terminated.

**STATEMENT**

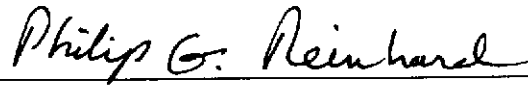
On 6/22/2015, Magistrate Judge Johnston entered a report and recommendation [20] recommending that the motion to dismiss [5] of defendant Helen Fitzgerald be granted for lack of subject matter jurisdiction, that the court decline to exercise supplemental jurisdiction over the claims against the remaining defendants, and that plaintiff’s motion [12] for attorney representation be denied as moot. No timely objection has been filed. The court has reviewed the record and accepts the report and recommendation. Plaintiff filed a complaint in state court seeking administrative review of his eviction alleging several violations of United States Department of Veterans Affairs housing programs. Fitzgerald is an employee of the Department of Veteran’s affairs sued for her action in her official capacity and is entitled to sovereign immunity. Any review of Department of Veterans Affairs decisions would have to be brought under the Administrative Procedures Act, 5 U.S.C. § 702. Federal courts have exclusive jurisdiction to review federal agency actions under the Administrative Procedures Act. The state court lacked subject matter jurisdiction and, therefore, as clearly set forth in the report and recommendation, this court lacks subject matter jurisdiction as well under the derivative jurisdiction doctrine.

Fitzgerald’s motion to dismiss [5] is granted. The claim against Fitzgerald is dismissed for lack of subject matter jurisdiction. The court declines to exercise supplemental jurisdiction over the remaining claims against the remaining defendants. These claims are remanded to the Circuit Court for the 17<sup>th</sup> Judicial Circuit, Winnebago County, Illinois. Because the court’s lack of subject matter jurisdiction is clear, as is the propriety of remanding the remaining claims to

state court (plaintiff's chosen forum,) appointment of counsel would not be helpful in this matter as plaintiff has not clearly articulated a federal claim. See Childress v. Walker, 787 F.3d 433 (7<sup>th</sup> Cir. 2015). Plaintiff's motion [12] for appointment of counsel is denied.

Date: 7/13/2015

ENTER:



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United States District Court Judge

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