

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

| | | |
|---------------------------|---|--------------------|
| TIMOTHY MICHAEL HOTOP, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 4:12CV2239 RWS |
| |) | |
| ST. LOUIS POLICE ACADEMY, |) | |
| |) | |
| Defendant. |) | |

MEMORANDUM AND ORDER

This matter is before the Court on its own motion. Rule 12(h)(3) of the Federal Rules of Civil Procedure states: “If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” The Court has reviewed the complaint and has determined that it should be dismissed for lack of jurisdiction.

Plaintiff brings this action under state law for breach of contract. Plaintiff alleges that he entered into an implied contract with the St. Louis Police Academy when it accepted his application, i.e., that it agreed to make him a police officer. Plaintiff says when the Academy ultimately decided not to make him a police officer, it breached the implied contract.

The Court lacks jurisdiction over the subject matter of the complaint. The parties are not diverse. See 28 U.S.C. § 1332. And there is no federal question. See 28 U.S.C. § 1331. As a result, the Court will dismiss this action under Rule 12(h)(3).

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [Doc. 2] is **GRANTED**.

IT IS FURTHER ORDERED that this action is **DISMISSED** for lack of jurisdiction.

IT IS FURTHER ORDERED that plaintiff's motion to appoint counsel [Doc. 4] is **DENIED** is **moot**.

An Order of Dismissal shall accompany this Memorandum and Order.

Dated this 11th day of December, 2012.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE