

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MICHAEL B. WOOLMAN,	)	4:12CV3136
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
LINCOLN POLICE DEPARTMENT	)	
and LANCASTER COUNTY	)	
ATTORNEY OFFICE,	)	
	)	
Defendants.	)	

Plaintiff filed his Complaint in this matter on July 2, 2012. (Filing No. [1](#).) Plaintiff has previously been given leave to proceed in forma pauperis. (Filing No. [8](#).) The court now conducts an initial review of the Complaint to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#).

## I. SUMMARY OF COMPLAINT

Plaintiff filed his Complaint on July 2, 2012, against two Nebraska municipal agencies. (Filing No. [1](#) at CM/ECF p. 1.) Plaintiff's allegations are nonsensical and sparse. Plaintiff includes a single paragraph that states that he attempted to send something to the United States Supreme Court from a Fed Ex location, but that the document didn't arrive due to "illegal inspection" by an officer in an "unmarked car." ([Id.](#) at CM/ECF p. 2.) Plaintiff also states that he is "in danger" due to "Threats From The State Department." ([Id.](#))

## II. APPLICABLE LEGAL STANDARDS ON INITIAL REVIEW

The court is required to review in forma pauperis complaints to determine whether summary dismissal is appropriate. *See* [28 U.S.C. § 1915\(e\)\(2\)](#). The court

must dismiss a complaint or any portion thereof that states a frivolous or malicious claim, that fails to state a claim upon which relief may be granted, or that seeks monetary relief from a defendant who is immune from such relief. [28 U.S.C. § 1915\(e\)\(2\)\(B\)](#).

A pro se plaintiff must set forth enough factual allegations to “nudge[] their claims across the line from conceivable to plausible,” or “their complaint must be dismissed” for failing to state a claim upon which relief can be granted. [Bell Atlantic Corp. v. Twombly](#), [550 U.S. 544, 569-70 \(2007\)](#); *see also* [Ashcroft v. Iqbal](#), [129 S. Ct. 1937, 1950 \(2009\)](#) (“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”). Regardless of whether a plaintiff is represented or is appearing pro se, the plaintiff’s complaint must allege specific facts sufficient to state a claim. *See* [Martin v. Sargent](#), [780 F.2d 1334, 1337 \(8th Cir. 1985\)](#). However, a pro se plaintiff’s allegations must be construed liberally. [Burke v. North Dakota Dep’t of Corr. & Rehab.](#), [294 F.3d 1043, 1043-44 \(8th Cir. 2002\)](#) (citations omitted).

Liberally construed, Plaintiff here alleges federal constitutional claims. To state a claim under [42 U.S.C. § 1983](#), a plaintiff must allege a violation of rights protected by the United States Constitution or created by federal statute and also must show that the alleged deprivation was caused by conduct of a person acting under color of state law. [West v. Atkins](#), [487 U.S. 42, 48 \(1988\)](#); [Buckley v. Barlow](#), [997 F.2d 494, 495 \(8th Cir. 1993\)](#).

### **III. DISCUSSION OF CLAIMS**

The court has carefully reviewed the Complaint. As set forth above, Plaintiff’s allegations are difficult to decipher. The allegations which the court can decipher do not nudge Plaintiff’s claims across the line from conceivable to plausible. Plaintiff

does not set forth any specific actions taken by Defendants which violate any constitutional right or support a claim under [42 U.S.C. § 1983](#). [Keeper v. King](#), [130 F.3d 1309, 1314 \(8th Cir. 1997\)](#). In short, Plaintiff does not allege that Defendants deprived him of a right secured by the Constitution or laws of the United States or that the alleged deprivation was committed under “color of state law.” [West, 487 U.S. at 48](#); [Buckley, 997 F.2d at 495](#). Even with the most liberal construction, Plaintiff’s Complaint does not include “sufficient facts to support the claims advanced,” and is, at best, frivolous. [Stringer v. St. James R-1 School Dist.](#), [446 F.3d 799, 802 \(8th Cir. 2006\)](#). This matter is therefore dismissed.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Complaint fails to state a claim upon which relief may be granted and is dismissed without prejudice pursuant to [28 U.S.C. § 1915\(e\)\(2\)](#).
2. A separate judgment will be entered in accordance with this Memorandum and Order.
3. All other pending motions are denied.

DATED this 14<sup>th</sup> day of August, 2012.

BY THE COURT:

s/ Joseph F. Bataillon  
United States District Judge

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