

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>MICHAEL MANN,</b>	)	<b>CASE NO. 8:08CV431</b>
	)	
<b>Plaintiff,</b>	)	
	)	<b>MEMORANDUM</b>
<b>v.</b>	)	<b>AND ORDER</b>
	)	
<b>CITY OF LINCOLN, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

This matter is before the court on its own motion. On December 30, 2008, this court conducted an initial review of Plaintiff's Complaint. (Filing No. [8](#).) In that Memorandum and Order, the court permitted Plaintiff the opportunity to amend his Complaint in order to clearly state a claim upon which relief may be granted. (*Id.*) In particular, Plaintiff was permitted the opportunity to allege "how the city's policy-making officials received notice of the alleged misconduct" and to "sufficiently describ[e] the type of conduct that led to his prosecution and the identities of the similarly situated individuals." (*Id.* at CM/ECF pp. 5, 7.)

On January 27, 2009, Plaintiff filed his Amended Complaint. (Filing No. [9](#).) However, even liberally construed, Plaintiff's Amended Complaint suffers from the same defects as his original Complaint. As such, Plaintiff has not set forth enough factual allegations to "nudge[ his] claims across the line from conceivable to plausible." See generally, *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955, 1974 (2007) (overruling *Conley v. Gibson*, 355 U.S. 41 (1967), and setting new standard for failure to state a claim upon which relief may be granted). For these reasons, and for the reasons set forth in the court's December 30, 2008 Memorandum and Order, Plaintiff's Amended Complaint fails to state a claim upon which relief may be granted and must be dismissed.

IT IS THEREFORE ORDERED that:

1. Pursuant to 28 U.S.C. § 1915(e)(2)(ii), Plaintiff's Amended Complaint is dismissed without prejudice because it fails to state a claim upon which relief may be granted; and
2. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 17<sup>th</sup> day of March, 2009.

BY THE COURT

s/Laurie Smith Camp  
United States District Judge