



failing to state a claim upon which relief can be granted. [\*Bell Atlantic Corp. v. Twombly\*, 550 U.S. 544, 570 \(2007\)](#); see also [\*Ashcroft v. Iqbal\*, 129 S. Ct. 1937, 1949 \(2009\)](#). (“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).

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

Liberally construed, Plaintiff asks the court to charge Defendant with a “white collar crime.” (Filing No. [1](#) at CM/ECF p. 2.) However, the court has no authority to grant his request. A private plaintiff cannot force a criminal prosecution because the “authority to initiate a criminal complaint rests exclusively with state and federal prosecutors.” See [\*Mercer v. Lexington Fayette Urban County Gov’t.\*, No. 94-6645, 1995 WL 222178, at \\*1 \(6th Cir. Apr. 13, 1995\) \(unpublished order\)](#); see also [\*United States v. Batchelder\*, 442 U.S. 114, 124 \(1979\)](#). (“Whether to prosecute and what charge to file or bring before a grand jury are decisions that generally rest in the prosecutor’s discretion.”). Accordingly, Plaintiff’s Complaint must be dismissed for failure to state a claim upon which relief may be granted, pursuant to [28 U.S.C. § 1915\(e\)](#).

The court notes that Plaintiff filed a letter in this matter on June 6, 2011, in which he urged the court to “speed up this matter,” and warned that he would send an identical letter

to the court on a daily basis until the court acted on his Complaint. (Filing No. [9](#).) The duplicates of this letter are maintained in the clerk's office. The court will order the clerk's office to destroy the duplicates, without filing them, and also any duplicates of this letter received in the future.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Complaint (Filing No. [1](#)) is dismissed without prejudice;
2. A separate judgment will be entered in accordance with this Memorandum and Order;
3. The clerk's office is directed to destroy the duplicates of Filing Number 9, without filing them, and also any duplicates of Filing Number 9 received in the future; and
4. All pending motions are denied as moot.

DATED this 24<sup>th</sup> day of June, 2011.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge

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