IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILLIE E. HARRIS, Plaintiff, v. CITY OF OMAHA, ROLOFF CONSTRUCTION, and CITY OF OMAHA PLANNING DEPT., Defendants.	)	8:15CV16 **MEMORANDUM AND ORDER**

Plaintiff Willie E. Harris ("Plaintiff") filed his Complaint (Filing No. 1) and Motion for Leave to Proceed in Forma Pauperis (Filing No. 2) on January 14, 2015. The court is required to review in forma pauperis complaints to determine whether summary dismissal is appropriate. *See* 28 U.S.C. § 1915(e). The court must dismiss a complaint or any portion of it 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).

This case is Plaintiff's second attempt at filing a lawsuit against Defendants in this court. Here, and in a previous action filed on July 3, 2014 (Case No. 8:14CV199), Plaintiff alleged Defendants' negligent placement of sandbags caused flooding to his home, which resulted in damage to his home and personal property. As set forth in the order dismissing the previous action, Plaintiff has not pled any actionable federal law claim. Rather, he appears to be attempting to bring a straightforward state-law negligence claim over which this court has no subject-matter jurisdiction because there is no "federal question" and no "diversity of citizenship." *See* 28 U.S.C. §§ 1331, 1332.

The court dismissed Plaintiff's previously-filed action "without prejudice to reassertion in the proper forum," and it will do the same here. (*See* Case No. 8:14CV199, Filing No. 10 at CM/ECF p. 2.) Because Plaintiff has, at best, stated a state-law claim for negligence, he must file his action in *state court* not in federal district court.

IT IS THEREFORE ORDERED that:

1. For the reasons set forth above, and for the reasons set forth in the court's Memorandum and Order dated December 9, 2014, in Case Number 8:14CV199, this action is dismissed without prejudice to reassertion in state court.

2. Plaintiff's Motion for Leave to Proceed in Forma Pauperis (Filing No. 2) is denied as moot.

3. A separate judgment will be entered in accordance with this order.

DATED this 4th day of March, 2015.

BY THE COURT:

s/ John M. Gerrard
United States District Judge

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