UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

Case No. 1:16-cv-648 LJO-BAM JOHN RAY GHOLAR, ORDER RE REQUEST THAT THIS COURT Plaintiff. ORDER THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS TO v. ANSWER PLAINTIFF'S CLAIM DEPARTMENT OF VETERAN (Doc 7) ADMINISTRATION AFFAIR, et al., Defendants.

On June 2, 2016, Plaintiff John Gholar filed a complaint challenging the Department of Veteran Affairs' management of his veteran disability benefits. On July 26, 2016, this court adopted in full the Findings and Recommendations ("F&Rs") of the assigned magistrate judge, and Plaintiff's Complaint was dismissed without prejudice and without leave to amend for lack of subject matter jurisdiction. (Docs. 4 & 5.) Judgment was entered and the case was closed. (Doc. 6.)

On December 14, 2016, Plaintiff filed a request for an Order directing the United States Court of Appeals for Veterans Claims to answer Plaintiff's claim(s). (Doc. 7.) Plaintiff indicates that this Court instructed Plaintiff to "first file in the United States Court of Appeals for Veteran Claims." (*Id.* at 1.) Plaintiff claims to have filed a document with that court on September 6, 2016, and followed up with a letter on October 2, 2016. (*Id.* at 2.) Having received no response, Plaintiff now asks this Court to "ask the Veteran Claim Court to answer plaintiff['s] 42 U.S.C. 1983 or please take the claim." *Id.*

1 As indicated in the F&Rs, even if this case were not already closed, this Court has no 2 authority to review or otherwise take action related to Plaintiff's underlying dispute with the 3 Department of Veterans Affairs: 4 Plaintiff's claims arise under the laws administered by the 5 Department of Veterans Affairs. 38 U.S.C. 301, et seq. The Veterans' Judicial Review Act of 1988 provides the exclusive 6 means for appealing benefit decisions made by the Department of Veterans Affairs. The claimantmust first appeal to the Board of 7 Veterans' Appeals. 38 U.S.C. § 7104(a). An adverse decision by the Board may be appealed to the Court of Appeals for Veterans 8 Claims. 38 U.S.C. § 7252(a) ("The Court of Appeals for Veterans 9 Claims shall have exclusive jurisdiction to review decisions of the Board of Veterans' Appeals."). In the limited circumstances specified by statute, the claimant may seek review by the United 10 States Court of Appeals for the Federal Circuit. 38 U.S.C. § 7292. 11 Federal district courts are not included in the congressional scheme for judicial review of veterans' benefit determinations. 12 13 (F&Rs, Doc. 4, at 3.) 14 Accordingly, Plaintiff's request is DENIED. 15 16 IT IS SO ORDERED. 17 Dated: **December 30, 2016** /s/ Lawrence J. O'Neill 18 UNITED STATES CHIEF DISTRICT JUDGE 19 20 21 22 23 24 25 26 27 28