

United States District Court

For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LYNN RICHARD BANASZYNSKI,  
Plaintiff,  
v.  
UNITED STATES OF AMERICA,  
Defendant.

No. C-05-2029 MMC

**ORDER DENYING APPLICATION TO  
PROCEED IN FORMA PAUPERIS;  
DISMISSING ACTION**

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Before the Court is plaintiff's application to proceed in forma pauperis, filed May 18, 2005, and his complaint against the United States of America for wrongful denial of veteran's benefits. Pursuant to 28 U.S.C. § 1915(e)(2), the Court must dismiss any complaint filed by a person seeking to proceed in forma pauperis if the complaint fails to state a claim. This Court lacks jurisdiction over plaintiff's claims, as such claims may be brought only pursuant to "the comprehensive, remedial structure" of the Veterans Judicial Review Act of 1988 ("VJRA"). See Hicks v. Small, 69 F.3d 967, 969-70 (9th Cir. 1995); see also Hicks v. Small, 842 F. Supp. 407, 410 (D. Nev. 1993). The VJRA requires an aggrieved veteran to pursue, first with the Department of Veterans Affairs and then with the Board of Veterans' Appeals, all claims relating to the denial of veteran's benefits. See 38 U.S.C. §§ 511(a), 7104-7105; see also Zuspahn v. Brown, 60 F.3d 1156, 1158-59 (5th Cir.

1 1995) (explaining review procedure under VJRA).

2 Accordingly, plaintiff's application to proceed in forma pauperis is hereby DENIED,  
3 and the complaint is hereby DISMISSED without prejudice.

4 The Clerk shall close the file.

5 **IT IS SO ORDERED.**

6 Dated: May 20, 2005

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MAXINE M. CHESNEY  
United States District Judge

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