

1
2
3
4
5
6
7
8

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 SHANNON O. MURPHY, SR.,

10 Plaintiff, No. C 11-06267 JSW

11 v.

12 DEPARTMENT OF VETERAN AFFAIRS,

13 Defendant.

14 **ORDER DENYING
APPLICATION TO PROCEED IN
FORMA PAUPERIS AND
DISMISSING COMPLAINT WITH
LEAVE TO AMEND**

15 _____/

16 The Court has received Plaintiff's complaint and application to proceed *in forma*
17 *pauperis*, both filed in this Court on December 13, 2011. The Court may authorize a plaintiff
18 to file an action in federal court without prepayment of fees or security if the plaintiff submits
19 an affidavit showing that he or she is unable to pay such fees or give security therefor. 28
20 U.S.C. § 1915(a). The *in forma pauperis* statute also provides that the Court shall dismiss the
21 case if at any time the Court determines that the allegation of poverty is untrue, or that the
22 action (1) is frivolous or malicious; (2) fails to state a claim on which relief may be granted; or
23 (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C.
24 § 1915(e)(2).

25 It is impossible to discern from Plaintiff's complaint many of the essential details of the
26 events giving rise to a claim. It is also impossible to discern whether Plaintiff has adequately
27 exhausted his administrative remedies before the Veterans Affairs tribunal to receive benefits
28 prior to seeking redress before this Court.

1 As such, Plaintiff has failed to set forth “a short and plain statement of the claim
2 showing that the pleader is entitled to relief” as required by Rule 8 of the Federal Rules of Civil
3 Procedure. However, the Court shall afford Plaintiff an opportunity to amend his complaint. If
4 Plaintiff chooses to amend, the Court requests that he include information about the application
5 for benefits, the denial, if any, and the Veterans Claims process he followed.

6 Plaintiff’s application to proceed *in forma pauperis* is denied without prejudice. If
7 Plaintiff chooses to file an amended complaint, he must submit a renewed application to
8 proceed *in forma pauperis*.

9 If Plaintiff wishes to pursue this action, he must file an amended complaint by **January**
10 **6, 2012**. Failure to file a cognizable legal claim by this date shall result in dismissal of this
11 action with prejudice. The Court advises Plaintiff that a Handbook for Pro Se Litigants, which
12 contains helpful information about proceeding without an attorney, is available through the
13 Court’s website or in the Clerk’s office. The Court also advises Plaintiff that additional
14 assistance may be available by making an appointment with the Legal Help Center, which is
15 located at 450 Golden Gate Avenue, 15th Floor, Room 2796, San Francisco, California, 94102.

16
17 **IT IS SO ORDERED.**

18
19 Dated: December 19, 2011


20 _____
21 JEFFREY S. WHITE
22 UNITED STATES DISTRICT JUDGE

23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

SHANNON O. MURPHY, SR.,

Case Number: CV11-06267 JSW

Plaintiff,

CERTIFICATE OF SERVICE

V.

DEPARTMENT OF VETERAN AFFAIRS
et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 19, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Shannon O. Murphy
General Delivery
Richmond, CA 94801

Dated: December 19, 2011

Jennifer Ottolini

Richard W. Wiekling, Clerk
By: Jennifer Ottolini, Deputy Clerk