

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

3  
4 AAREN WILLIAMS **STRIPLIN**,

No. C 12-6418 CW

5                                    Plaintiff,

AMENDED ORDER  
DENYING  
APPLICATION TO  
PROCEED IN FORMA  
PAUPERIS

6                                    v.

7 SOCIAL SECURITY ADMINISTRATION,

8                                    Defendant.

9 \_\_\_\_\_/

10  
11                                    Plaintiff Aaren Williams **Striplin** has applied to proceed  
12 in forma pauperis. The matter was decided on the papers. Having  
13 considered all of the papers filed by Plaintiff, the Court DENIES  
14 the application.

15                                    The Ninth Circuit has indicated that leave to proceed in  
16 forma pauperis pursuant to 28 U.S.C. § 1915(a) is properly granted  
17 only when the plaintiff has demonstrated poverty and has presented  
18 a claim that is not factually or legally frivolous within the  
19 definition of § 1915(e)(2)(B). See O'Loughlin v. Doe, 920 F.2d  
20 614, 616 (9th Cir. 1990); Tripati v. First Nat'l Bank & Trust, 821  
21 F.2d 1368, 1370 (9th Cir. 1987). Thus, the court "may deny leave  
22 to proceed in forma pauperis at the outset if it appears from the  
23 face of the proposed complaint that the action is frivolous or  
24 without merit." Id. (quoting Reece v. Washington, 310 F.2d 139,  
25 140 (9th Cir. 1962); Smart v. Heinze, 347 F.2d 114, 116 (9th Cir.  
26 1965). An in forma pauperis complaint is frivolous if it has "no  
27 arguable basis in fact or law." O'Loughlin, 920 F.2d at 617;  
28

1 Tripati, 821 F.2d at 1379; Franklin v. Murphy, 745 F.2d 1221, 1228  
2 (9th Cir. 1984).

3       The Supreme Court has held that dismissal prior to service  
4 under 28 U.S.C. § 1915(e)(2)(B) is appropriate where no legal  
5 interest is implicated, i.e., the claim is premised on a meritless  
6 legal theory, or clearly lacking any factual basis. See Neitzke  
7 v. Williams, 490 U.S. 319, 324 (1989). Section 1915(e)(2)(B)  
8 accords judges the unusual power to pierce the veil of the  
9 complaint's factual allegations and dismiss those claims premised  
10 on factual contentions that are clearly baseless. See Denton v.  
11 Hernandez, 504 U.S. 25, 32 (1992). To pierce the veil of the  
12 complaint's factual allegations means that a court is not bound,  
13 as it usually is when making a determination based solely on the  
14 pleadings, to accept without question the truth of the plaintiff's  
15 allegations. But, this initial assessment of the in forma  
16 pauperis plaintiff's factual allegations must be weighted in favor  
17 of the plaintiff. See id. A frivolousness determination cannot  
18 serve as a factfinding process for the resolution of disputed  
19 facts, and the complaint may not be dismissed simply because the  
20 court finds the plaintiff's allegations unlikely or improbable.  
21 See id. A finding of factual frivolousness is appropriate when  
22 "the facts alleged are 'clearly baseless' . . . a category  
23 encompassing allegations that are 'fanciful,' 'fantastic,' and  
24 'delusional,'" id. (citations omitted), or "rise to the level of  
25 the irrational or the wholly incredible, whether or not there are  
26 judicially noticeable facts available to contradict them." Id.

27       Because a dismissal pursuant to § 1915(e)(2)(B) is not a  
28 dismissal on the merits, but rather an exercise of the court's

1 discretion under the in forma pauperis statute, the dismissal does  
2 not prejudice the filing of a paid complaint making the same  
3 allegations. See id.

4 The Court finds that Plaintiff's complaint is frivolous.  
5 Plaintiff names "Social Security Income/Supplimental [sic]  
6 Security Income" as Defendant in this case. Plaintiff complains  
7 both that he was "given \$900+ at first . . . reduced to around  
8 \$800.00 plus when I complained" and also that his claim for SSI  
9 was denied and he was not given the opportunity to appeal the  
10 denial. Plaintiff seeks \$1.5 million, back pay to the date he  
11 applied for SSI in 2005, and an increase in his SSI payments to  
12 \$9,000 monthly. Because Plaintiff's complaint is frivolous and  
13 without merit, the Court DENIES Plaintiff's request to proceed in  
14 forma pauperis.

15  
16 IT IS SO ORDERED.

17  
18 Dated: 12/28/2012

19   
20 CLAUDIA WILKEN  
21 United States District Judge  
22  
23  
24  
25  
26  
27  
28