

1 HONORABLE RONALD B. LEIGHTON

2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 BRIAN D. OLBRECHT,

10 Plaintiff,

11 v.

12 CITY OF TACOMA,

13 Defendant.

CASE NO. 3:17-CV-5534 RBL

ORDER DENYING MOTION FOR
LEAVE TO PROCEED IFP WITH
LEAVE TO AMEND

14 THIS MATTER is before the Court on Plaintiff Olbrecht's Motion for Leave to Proceed
15 *in Forma Pauperis* [Dkt. #1]. Olbrecht is homeless and claims the City of Tacoma has enacted
16 an ordinance that targets the homeless by limiting where they may camp.

17 A district court may permit indigent litigants to proceed *in forma pauperis* upon
18 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad
19 discretion in resolving the application, but "the privilege of proceeding *in forma pauperis* in civil
20 actions for damages should be sparingly granted." *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir.
21 1963), *cert. denied* 375 U.S. 845 (1963). A court should "deny leave to proceed *in forma*
22 *pauperis* at the outset if it appears from the face of the proposed complaint that the action is
23 frivolous or without merit." *Tripati v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir.

1 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis* complaint
2 is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v. Dawson*, 778
3 F.2d 527, 529 (9th Cir. 1985); *see also Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

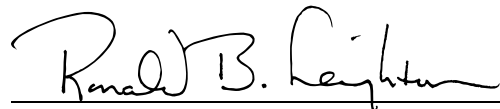
4 Olbrecht has sufficiently demonstrated his indigency. He resides in Tacoma and only
5 receives \$855.00 for disability, unemployment, workers compensation, or public assistance each
6 month. He avers that he has no savings or property, and only \$1,000 in cash.

7 The Court cannot assess the frivolity (or lack thereof) of Olbrecht’s claims, however,
8 because his complaint lacks sufficient detail to put the Court and the City of Tacoma on notice of
9 his claims and grounds for relief. Olbrecht’s allegation that the City is targeting the homeless
10 might warrant judicial review and intervention, but he neglects to describe his legal claim for
11 relief. *See e.g.*, Fed. R. Civ. Pro. 8. He should amend his complaint to include a short and plain
12 statement of the grounds for this Court’s jurisdiction and to develop the “who what when where
13 and why” of his facts more fully.

14 Olbrecht’s application as it stands is **DENIED**, without prejudice. He shall have 30 days
15 to amend his complaint to articulate a (proper) basis for this Court’s subject matter jurisdiction.

16 IT IS SO ORDERED.

17 Dated this 20th day of July, 2017.

18
19 

20 Ronald B. Leighton
21 United States District Judge
22
23
24