

Appendix D

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 16 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CECILE ANDREA BROWN,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA, Board of
Veteran Appeals; et al.,

Defendants-Appellees.

No. 21-35383

D.C. No. 2:21-cv-00246-JCC
Western District of Washington,
Seattle

ORDER

Before: SILVERMAN, NGUYEN, and R. NELSON, Circuit Judges.

Upon a review of the record, the opening brief received on May 20, 2021, and the responses to the court's June 11, 2021 order, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 2), *see* 28 U.S.C. § 1915(a), and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

All other pending motions are denied as moot.

No further filings will be entertained in this closed case.

DISMISSED.

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U.S. COURT OF APPEALS

CECILE ANDREA BROWN,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA, Board of
Veteran Appeals; et al.,

Defendants-Appellees.

No. 21-35383

D.C. No. 2:21-cv-00246-JCC
Western District of Washington,
Seattle

ORDER

CECILE ANDREA BROWN,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA; et al.,

Defendants-Appellees.

No. 21-35386

D.C. No. 2:21-cv-00287-JCC
Western District of Washington,
Seattle

ORDER

Before: SILVERMAN, NGUYEN, and R. NELSON, Circuit Judges.

In light of appellant's frequent telephone calls to the court, appellant is ordered to cease contacting the court via telephone. Appellant may communicate with the court only by written communication submitted in her cases.

On June 16, 2021, we dismissed appeal Nos. 21-35383 and 21-35386 as frivolous. The June 16, 2021 order further stated that no further filings would be considered in these closed appeals.

Appendix D

Accordingly, we decline to consider appellant's filings subsequent to the June 16, 2021 dismissal in appeal Nos. 21-35383 and 21-35386.

These appeals remain closed.

Appendix E

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CECILE A. BROWN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

CASE NO. C21-0246-JCC

ORDER

This matter comes before the Court *sua sponte*. Plaintiff Cecile Brown seeks to appeal a Board of Veterans Appeals decision regarding veterans' benefits or requests that the Court issue a writ of mandamus ordering the Board to issue a different decision on the timeline she requests. Having reviewed Ms. Brown's complaint and the relevant record pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court concludes that it lacks jurisdiction to entertain Ms. Brown's claims and therefore DISMISSES the complaint without prejudice and without leave to amend.

I. BACKGROUND

Ms. Brown received a decision from the Board of Veterans Appeals on July 17, 2020 with which she disagrees. (*See* Dkt. No. 4 at 17–18.) In response, Ms. Brown sent the Board a letter expressing her disagreement with the decision. (*Id.*) On January 27, 2021, Kimberly Osborne, Deputy Vice Chairman of the Board of Veterans Appeals, construed Ms. Brown's letter as a motion for reconsideration and issued a letter ruling denying the motion because the issues

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1 Ms. Brown raised in her letter were not presented to the Board at the time of its decision. (*Id.* at
2 18.) The letter also informed Ms. Brown that she could file a new claim or move to reopen her
3 claim and submit new evidence through her local VA regional office. (*Id.*) Ms. Brown apparently
4 sent another letter to the Board on February 5, 2021. (*Id.* at 19.) On February 8, 2021, the Board
5 wrote back, explaining that because the Board had already issued a decision and denied her
6 motion for reconsideration, “the Board can take no further action on this matter.” (*Id.*) The letter
7 directed Ms. Brown back to the New Orleans regional office and to the portion of the Board’s
8 opinion entitled, “Your Rights to Appeal Our Decision.” (*Id.*)

9 It does not appear that Ms. Brown took advantage of her appeal rights. Instead, she
10 filed the instant suit in which her chief complaint is that the “decision should not have been
11 issued” because the “case did not lack merit or jurisdiction” but the Board “refuses to change the
12 decision [even] after [she] call[ed] multiple of times and sent faxes making them aware the
13 decision was not accurate or truthful.” (Dkt. No. 4 at 5.) Ms. Brown alleges that the Board’s
14 erroneous decision and refusal to change it amounts to “negligence,” “perjury, fraud, and theft of
15 benefits.” (*Id.*) She seeks \$10 million dollars in compensatory damages and \$10 million dollars
16 in punitive damages based on “loss income, emotional distress, and trauma” caused by “having
17 to deal with the federal government” and the fact that she had to wait 30 days before the
18 government uploaded evidence to her case file. (*Id.* at 6.) Ms. Brown also requests that the Court
19 “command the United States of America Board of Veteran Appeals to please release the correct
20 decision . . . and all benefits won.” (Dkt. No. 6 at 3.)

21 The Court dismissed the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) without
22 prejudice because it failed to state a claim upon which relief could be granted, her request for
23 \$20 million in damages was frivolous, and venue is not proper in this Court. (Dkt. No. 15.) In
24 response, Ms. Brown filed two copies of an amended complaint (Dkt. Nos. 17, 18) and a
25 “statement” (Dkt. No. 21). They did not cure the deficiencies. At bottom, Ms. Brown seeks to
26 appeal the Board’s decision or for this Court to issue a writ of mandamus “ordering BVA to send

Appendix E

1 final disposition decision and all money owed,” and the Court lacks jurisdiction to do so. (Dkt.
2 No. 14 at 6.)

3 II. DISCUSSION

4 The Court must dismiss an *in forma pauperis* complaint if it fails to state a claim upon
5 which relief may be granted or if it is frivolous. 28 U.S.C. § 1915(e)(2)(B)(i)–(ii). “Article III
6 generally requires a federal court to satisfy itself of its jurisdiction over the subject matter before
7 it considers the merits of a case.” *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999).
8 “In cases involving benefits owed to veterans, Congress has created a scheme conferring
9 exclusive jurisdiction over claims affecting veterans’ benefits to some federal courts, while
10 denying all other federal courts any jurisdiction over such claims.” *Veterans for Common Sense*
11 *v. Shinseki*, 678 F.3d 1013, 1020 (9th Cir. 2012). This Court does not have jurisdiction to hear
12 appeals regarding veterans’ benefits. *Littlejohn v. United States*, 321 F.3d 915, 921 (9th Cir.
13 2003) (“[T]he Federal Circuit [is] the only Article III court with jurisdiction to hear challenges to
14 VA determinations regarding disability benefits.”); *see also* 38 U.S.C. § 7292(c). A party seeking
15 to appeal a decision of the Board of Veterans Appeals must first appeal to the Court of Appeals
16 for Veterans Claims, 38 U.S.C. § 7252(a), and then to the Court of Appeals for the Federal
17 Circuit, 38 U.S.C. § 7292(c).

18 This Court also lacks jurisdiction to issue a writ of mandamus “ordering BVA to send
19 *final disposition decision and all money owed.*” (Dkt. No. 14 at 6.) When it comes to veterans’
20 benefits, “the decision of the Secretary [is] final and conclusive and may not be reviewed by any
21 other official or by any court, whether by an action in the nature of mandamus or otherwise.” 38
22 U.S.C. § 511(a).

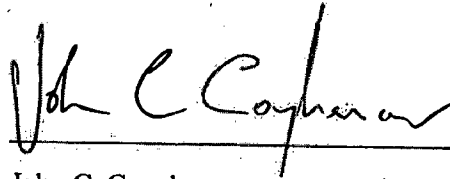
23 III. CONCLUSION

24 For the foregoing reasons, and because amendment would be futile, the Court
25 DISMISSES the complaint without prejudice and without leave to amend. If Ms. Brown seeks
26 further review of the Board’s decision, she must seek it in the United States Court of Appeals for

Appendix E

1 Veterans Claims.

2 DATED this 21st day of April 2021.

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6 John C. Coughenour
7 UNITED STATES DISTRICT JUDGE
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Appendix E

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CECILE A. BROWN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

JUDGMENT IN A CIVIL CASE

CASE NO. C21-0246-JCC

 Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

 X **Decision by Court.** This action came to consideration before the Court. The issues have been considered and a decision has been rendered.

The Court has so ORDERED:

The Court DISMISSES the complaint without prejudice and without leave to amend for lack of subject matter jurisdiction.

DATED this 21st day of April 2021.

WILLIAM M. MCCOOL
Clerk of Court

/s/ Paula McNabb
Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 2 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CECILE ANDREA BROWN,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA, Board of
Veteran Appeals; et al.,

Defendants-Appellees.

No. 21-35383

D.C. No. 2:21-cv-00246-JCC
Western District of Washington,
Seattle

ORDER

Before: SILVERMAN and NGUYEN, Circuit Judges.

Appellant's motion for relief (Docket Entry No. 6), emergency motion for summary judgment (Docket Entry No. 7), and motion for default judgment (Docket Entry Nos. 10 & 11) are denied. No motions for reconsideration of these denials will be entertained.

The court will address the other pending motions after the district court determines whether this appeal is taken in good faith. This appeal is stayed pending further court order.

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Appendix S

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CECILE A. BROWN,

Plaintiff,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

CASE NO. C21-0287-JCC

ORDER

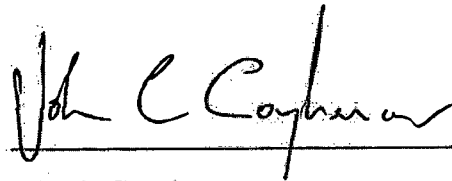
This matter comes before the Court on referral from the Ninth Circuit Court of Appeals, which requests that the Court determine whether Ms. Brown's appeal is frivolous or was taken in bad faith. (Dkt. No. 54.) "[A]n appeal on a matter of law is frivolous where '[none] of the legal points [are] arguable on their merits.'" *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). An appeal is also frivolous if the "factual contentions are clearly baseless." *Id.* at 327. "[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." *Denton v. Hernandez*, 504 U.S. 25, 33 (1992).

Having considered the record and the basis for Ms. Brown's appeal, the Court concludes that the appeal is legally and factually frivolous. First, it is well-established that the Court lacks jurisdiction to hear veterans' claims for benefits. *See Veterans for Common Sense v. Shinseki*, 678 F.3d 1013, 1020 (9th Cir. 2012). Second, Ms. Brown's claim that President Biden personally

Appendix E

1 intervened in her case to illegally deny her veterans benefits as a means of “overturn[ing]
2 everything Trump approved of as President” and getting “revenge on Trump” is frivolous. *See*
3 Motion to Hear Case with Other Case at 1, *Brown v. United States*, No. 21-35386, Dkt. No. 8-1
4 (9th Cir. May 24, 2021).

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6 DATED this 9th day of June 2021.

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10 John C. Coughenour
11 UNITED STATES DISTRICT JUDGE
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THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CECILE A. BROWN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

CASE NO. C21-0246-JCC

ORDER

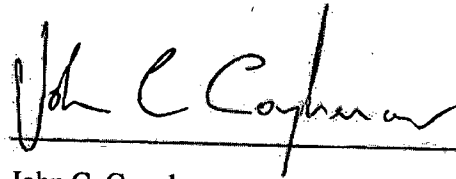
This matter comes before the Court on referral from the Ninth Circuit Court of Appeals, which requests that the Court determine whether Ms. Brown's appeal is frivolous or was taken in bad faith. (Dkt. No. 60.) "[A]n appeal on a matter of law is frivolous where '[none] of the legal points [are] arguable on their merits.'" *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). An appeal is also frivolous if the "factual contentions are clearly baseless." *Id.* at 327. "[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." *Denton v. Hernandez*, 504 U.S. 25, 33 (1992).

Having considered the record and the basis for Ms. Brown's appeal, the Court concludes that the appeal is legally and factually frivolous. First, it is well-established that the Court lacks jurisdiction to hear veterans' claims for benefits. See *Veterans for Common Sense v. Shinseki*, 678 F.3d 1013, 1020 (9th Cir. 2012). Second, Ms. Brown's claim that President Biden personally

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1 intervened in her case to illegally deny her veterans benefits as a means of "overturn[ing]
2 everything Trump approved of as President" and getting "revenge on Trump" is frivolous. See
3 Motion to Hear Case with Other Case at 1, *Brown v. United States*, No. 21-35383, Dkt. No. 8-1
4 (9th Cir. May 24, 2021).

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6 DATED this 9th day of June 2021.

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10 John C. Coughenour
11 UNITED STATES DISTRICT JUDGE
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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 16 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CECILE ANDREA BROWN,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA; et al.,

Defendants-Appellees.

No. 21-35386

D.C. No. 2:21-cv-00287-JCC
Western District of Washington,
Seattle

ORDER

Before: SILVERMAN, NGUYEN, and R. NELSON, Circuit Judges.

Upon a review of the record, the opening brief received on May 21, 2021, and responses to the court's June 11, 2021 order, we conclude this appeal is frivolous. We therefore confirm that appellant is not entitled to proceed in forma pauperis in this appeal, and we dismiss the appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2).

All other pending motions are denied as moot.

No further filings will be entertained in this closed case.

DISMISSED.

AT/MOATT

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CECILE A. BROWN,

Plaintiff,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

CASE NO. C21-0287-JCC

ORDER

This matter comes before the Court *sua sponte*. Plaintiff Cecile Brown seeks to appeal a Board of Veterans Appeals decision regarding veterans' benefits or requests that the Court issue a writ of mandamus ordering the Board to issue a different decision on the timeline she requests. Having reviewed Ms. Brown's complaint and the relevant record pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court concludes that it lacks jurisdiction to entertain Ms. Brown's claims and therefore DISMISSES the complaint without prejudice and without leave to amend.

I. BACKGROUND

Ms. Brown received a decision from the Board of Veterans Appeals on July 17, 2020 with which she disagrees. (*See* Dkt. No. 1-3 at 3-4.) In response, Ms. Brown sent the Board a letter expressing her disagreement with the decision. (*Id.*) On January 27, 2021, Kimberly Osborne, Deputy Vice Chairman of the Board of Veterans Appeals, construed Ms. Brown's letter as a motion for reconsideration and issued a letter ruling denying the motion because the issues

1 Ms. Brown raised in her letter were not presented to the Board at the time of its decision. (*Id.* at
2 4.) The letter also informed Ms. Brown that she could file a new claim or move to reopen her
3 claim and submit new evidence through her local VA regional office. (*Id.*) Ms. Brown apparently
4 sent another letter to the Board on February 5, 2021. (*Id.* at 5.) On February 8, 2021, the Board
5 wrote back, explaining that because the Board had already issued a decision and denied her
6 motion for reconsideration, “the Board can take no further action on this matter.” (*Id.*) The letter
7 directed Ms. Brown back to the New Orleans regional office and to the portion of the Board’s
8 opinion entitled, “Your Rights to Appeal Our Decision.” (*Id.*)

9 It does not appear that Ms. Brown took advantage of her appeal rights. Instead, she
10 filed the instant suit in which her chief complaint is that the Board “illegally dismiss[ed] [her]
11 case when the case did not lack merit or jurisdiction.” (Dkt. No. 1 at 5.) Ms. Brown alleges that
12 the Board’s erroneous decision was “negligent behavior” and that the Board’s refusal to award
13 her benefits was “a form of carelessness.” (*Id.* at 9.) She seeks “[o]ver \$1.9 [t]rillion [d]ollars” in
14 damages. (*Id.* at 6.) Ms. Brown also requests that the Court “command the United States of
15 America Board of Veteran Appeals to please release the correct decision . . . and all benefits
16 won.” (Dkt. No. 1-6 at 3.)

17 The Court dismissed the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) without
18 prejudice because it failed to state a claim upon which relief could be granted, her request for
19 \$1.9 trillion in damages was frivolous, and venue is not proper in this Court. (Dkt. No. 12.) In
20 response, Ms. Brown filed a “statement” (Dkt. No. 13) and two copies of an amended complaint
21 (Dkt. Nos. 14, 15). They did not cure the deficiencies. At bottom, Ms. Brown seeks to appeal the
22 Board’s decision or for this Court to issue a writ of mandamus “ordering BVA to send final
23 disposition decision and all money owed,” and the Court lacks jurisdiction to do so. (Dkt. No. 14
24 at 6.)

25 II. DISCUSSION

26 The Court must dismiss an *in forma pauperis* complaint if it fails to state a claim upon

1 which relief may be granted or if it is frivolous. 28 U.S.C. § 1915(e)(2)(B)(i)–(ii). “Article III
2 generally requires a federal court to satisfy itself of its jurisdiction over the subject matter before
3 it considers the merits of a case.” *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999).
4 “In cases involving benefits owed to veterans, Congress has created a scheme conferring
5 exclusive jurisdiction over claims affecting veterans’ benefits to some federal courts, while
6 denying all other federal courts any jurisdiction over such claims.” *Veterans for Common Sense*
7 *v. Shinseki*, 678 F.3d 1013, 1020 (9th Cir. 2012). This Court does not have jurisdiction to hear
8 appeals regarding veterans’ benefits. *Littlejohn v. United States*, 321 F.3d 915, 921 (9th Cir.
9 2003) (“[T]he Federal Circuit [is] the only Article III court with jurisdiction to hear challenges to
10 VA determinations regarding disability benefits.”); *see also* 38 U.S.C. § 7292(c). A party seeking
11 to appeal a decision of the Board of Veterans Appeals must first appeal to the Court of Appeals
12 for Veterans Claims, 38 U.S.C. § 7252(a), and then to the Court of Appeals for the Federal
13 Circuit, 38 U.S.C. § 7292(c).

14 This Court also lacks jurisdiction to issue a writ of mandamus “ordering BVA to send
15 final disposition decision and all money owed.” (Dkt. No. 14 at 6.) When it comes to veterans’
16 benefits, “the decision of the Secretary [is] final and conclusive and may not be reviewed by any
17 other official or by any court, whether by an action in the nature of mandamus or otherwise.” 38
18 U.S.C. § 511(a).

19 III. CONCLUSION

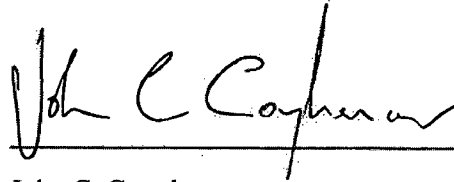
20 For the foregoing reasons, and because amendment would be futile, the Court
21 DISMISSES the complaint without prejudice and without leave to amend. If Ms. Brown seeks
22 further review of the Board’s decision, she must seek it in the United States Court of Appeals for
23 Veterans Claims.

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1 DATED this 21st day of April 2021.

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5 John C. Coughenour
6 UNITED STATES DISTRICT JUDGE
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