

S.D.N.Y. – N.Y.C.  
24-cv-6641  
Swain, C.J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 31<sup>st</sup> day of July, two thousand twenty-five.

Present:

Eunice C. Lee,  
Beth Robinson,  
Sarah A. L. Merriam,  
*Circuit Judges.*

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Terence Henderson,

*Plaintiff-Appellant,*

v.

25-540

United States Department of the Army, et al.,



*Defendants-Appellees.*

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Appellant, proceeding pro se, moves for leave to proceed in forma pauperis. Upon due consideration, it is hereby ORDERED that the motion is DENIED and the appeal is DISMISSED because it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *see* 28 U.S.C. § 1915(e). As the district court concluded, a veteran challenging the denial of benefits by the Secretary of Veterans Affairs must appeal to the Board of Veterans’ Appeals, 38 U.S.C. §§ 7101(a), 7104, 7105. Neither the district court, nor this Court, has jurisdiction to consider Appellant’s claims.

FOR THE COURT:

Catherine O’Hagan Wolfe, Clerk of Court

APPENDIX A

**UNITED STATES COURT OF APPEALS  
for the  
SECOND CIRCUIT**

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At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 11<sup>th</sup> day of September, two thousand twenty-five,

Present: Eunice C. Lee,  
Beth Robinson,  
Sarah A. L. Merriam,

Circuit Judges,

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Terence Henderson,

Plaintiff - Appellant,

v.

United States Department of the Army, Germany, NATO,

Defendants - Appellees.

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**ORDER**

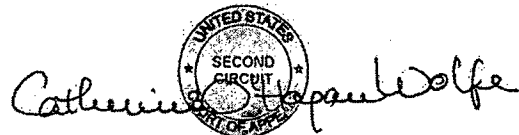
Docket No. 25-540

Appellant Terence Henderson filed a motion for reconsideration and the panel that determined the motion has considered the request.

IT IS HEREBY ORDERED, that the motion is denied.

For The Court:

Catherine O'Hagan Wolfe,  
Clerk of Court

The signature of Catherine O'Hagan Wolfe is written in cursive over a circular seal. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "CLERK OF COURT".

APPENDIX B

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT  
THURGOOD MARSHALL U.S. COURTHOUSE

TERENCE HENDERSON,  
PLAINTIFF,

VS.

25-540

UNITED STATES DEPT OF THE ARMY, et al..  
DEFENDANT,

MOTION FOR RECONSIDERATION

THE WAR DEPT THE DIRECT PREDECESSOR TO THE DEPT OF THE ARMY, SECRETARY OF VETERANS AFFAIRS. I TERERNC E HENDERSON REQUEST THIS HONORABLE COURT TO RECONSIDER ITS DECISION. I WAS A 16 YEAR OLD MINOR ENLISTED INTO THE WAR DEPT WITHOUT CONSENT CAPITAL PUNISHMENT i.e. 8,13,14 AMENDMENT VIOLATIONS. YOU CANNOT ENLIST IN THE U.S. ARMY AT 16 YEARS OF AGE. THE MINIMUM AGE FOR ENLISTMENT IS 17 WITH PARENTAL CONSENT. THE SUPREME COURT RULED DEATH PENALTY UNCONSTITUTIONAL FOR 16 YEAR OLD MINORS. 2005 ROPER V. SIMMONS. THE U.S. GOVERNMENT RECOGNIZES CHILD SOLDERING WW2 SERVICEMANS RE ADJUSTMENT ACT OF 1944. SEC-104 NO PERSON SHALL BE DISCHARGED OR RELEASED FROM ACTIVE DUTY IN THE ARMED FORCES UNTIL HIS CERTIFICATE OF DISCHARGE OR RELEASE FROM ACTIVE DUTY AND FINAL PAY OR SUBSTANTIAL PORTION THEROF ARE READY FOR DELIVERY TO HIM. I REQUEST THIS COURT TO GRANT SAID COMPENSATION FOR CONGRESSSIONAL EARMARKED OWNERSHIP OF EASTERN GERMANY 1/25/88, 70 SQ MILES=1,951,488,000 SQ FT MAPPING AND LAND NAVIGATION i.e. COMPASS, TA-312.

TIMELINE- WITHOUT WARNING THE GERMANS INVADED BELGUIM ON MAY 10, 1940. I WASN'T EVEN BORN YET. 1961 BERLIN WALL CONSTRUCTED SAME YEAR AS RIVERSIDE CHURCH HAWKS BASKETBALL PROGRAM. 1986- I WAS CROWNED ESPN NYC SLAM DUNK KING AT 16 YEARS OLD. I WAS BROADCAST INTERNATIONALLY ON ESPN SCHOLASTIC SPORTS AMERICA. 1987- I WAS 17 YEARS OLD RULED INELIGIBLE FOR VARSITY HIGH SCHOOL SPORTS NO CONSENT. I WAS 18 YEARS OLD 1/25/ 88 UCMJ WARRANT ISSUED DESERTION/DEATH PENALTY/LAND NAVIGATION MAP READING WAR DEPT 25, D.C, 17 NOV 1944 PAMPHLET NO.21-23 MINES AND BOOBY TRAPS 1989-NATIONAL TRAINING CENTER "THE BOX" BRAVE RIFLES VS. 11 CAVALRY. HOWITZER BATTERY 1<sup>ST</sup> SQUADRON KING OF THE BATTLE. CHRIS GUEFFROY DIED FEB 5, 1989, WINIFREID FRUEDENBERG DIED MARCH 8, 1989 ATTEMPTING TO FLEE EAST GERMANY. 15 DAYS LATER HOWITZER BATTERY 1<sup>ST</sup> SQUADRON FT BLISS TX DEPLOYS 3/23/89-EARMARKED OWNERSHIP TERRITORY ACQUISTION 11/1/89. FALL OF THE BERLIN WALL 11/9/89.

REF: EXECUTIVE ORDER 9981, TRUMAN DOCTRINE, MARSHALL PLAN, MANHATTAN PROJECT, WHITE SANDS MISSSLE RANGE, WW2 FDR RE-ADJUSTMENT ACT 1944 WAR DEPT RESPONSIBLE FOR THE ARMY.

RESPECTFULLY SUBMITTED,

  
TERENCE HENDERSON

Appendix C

**STATEMENT FOR ENLISTMENT  
UNITED STATES ARMY ENLISTMENT OPTION  
US ARMY DELAYED ENLISTMENT PROGRAM**

For use of this form, see AR 601-201; the proponent agency is the Office of the Deputy Chief of Staff for Personnel.

**1. ACKNOWLEDGEMENT:** In connection with my enlistment into the United States Army Reserve, I hereby acknowledge that:

a. My enlistment in the US Army Reserve obligates me to a total of 8 years service in the US Armed Forces, including service in the Reserve components, unless sooner discharged by proper authority. Fulfillment of this obligation begins on the date I enlist in the Delayed Entry Program.

b. I will be assigned to the US Army Reserve Control Group (*Delayed Entry*), during which time I will be in a nonpay status and will not be authorized to participate in any Reserve training.

c. I volunteer to serve on active duty for two years in any job assignment specified by the Army, such period to begin within 15 days unless I enlist into the Regular Army, or I am granted further delay by proper authority.

d. In lieu of performing the active duty specified in c above, I may enlist into the Regular Army for a period of 2 Years 4 Weeks with the following understanding:

(1) Upon enlistment into the Regular Army, I will be enlisted under the provisions of Army Regulation 601-210, option or options as indicated below:

— Option 9- 26 TITLE US Army Two Year Contract GPT

— Option 9- 28 TITLE US Army 1st, 2nd

— Option 9- \_\_\_\_\_ TITLE 1st

— Option 9- \_\_\_\_\_ TITLE 1st

(enter appropriate primary option and indicate all associated options)

(2) If enlisting for an Army school course I have been assured of attending the school course for MOS or CMF:

1st TITLE General Management

(enter military occupational specialty or career management field & title)

(3) In the event through no fault of my own that my enlistment option, school course, or training of my choice is cancelled or otherwise not available before I enlist into the Regular Army, I will elect one of the following alternatives:

(a) I will elect another option, school course or training of my choice for which I am qualified and a vacancy exists.

(b) I will be separated from the Delayed Entry Program.

(4) The date of my enlistment into the Regular Army is scheduled for: 1 Feb 1980

(5) In the event that I willfully fail to report for active duty on the date specified in (4) above and on my DD Form 4 enlistment contract I understand that I will be in an Absent Without Leave Status (AWOL) and subject to apprehension in accordance with article 86 and if appropriate article 85 (*deserter*) of the Uniform Code of Military Justice.

(6) I further certify that I am currently enrolled as a senior in high school and I understand that my enlistment into the Delayed Entry Program is contingent upon my successful completion of high school.

(Initials) ✓

(7) I understand that the course I have selected requires me to present proof in the form of a transcript or letter from school officials stating I have successfully completed a course or courses of instruction in

HS, 1st  
(enter Subject(s), i.e., Math, Science, etc.)

(8) I certify that I have read or have viewed the Job Description for the MOS I am enlisting for and further acknowledge that I understand the general nature of the training I will receive.

(Initials) ✓

Appendix D

# STATEMENT FOR ENLISTMENT - CONTINUED

(9) I also acknowledge that if I am qualified and I am enlisting for an MOS or CMF that has a Cash Bonus, that the bonus amount authorized on my enlistment into the Regular Army will be the amount authorized upon my entry into the Delayed Entry Program. Further I understand that the Bonus for my CMF/MOS on this date is \$ 211.00 (Note: If (Amount/Initials) enlisting for an MOS which has a Cash Bonus and applicant declined such bonus the word "Declined" is entered in the Amount Block. If no bonus authorized enter "NONE"). If the word declined is entered above I hereby state I was offered an enlistment option for a bonus and declined such option.

(10) If I have enlisted for guaranteed 1st assignment of Europe, I understand that should I acquire a dependent prior to my active duty date, I will no longer be qualified for a guaranteed assignment to Europe. (This does not preclude assignment to Europe at the discretion of the Army)

(11) I certify I have provided my recruiter and counselor all information required on my application for enlistment, further, I have not concealed any medical information and I further state that no person has advised me to conceal any information with respect to my enlistment.

2. UNDERSTANDING: I understand that in the event the Secretary of the Army determines that military necessity of a national scope requires that service members be available for immediate assignment/reassignment, any guarantees contained in this agreement may be terminated. Under these conditions I may be assigned or reassigned according to the needs of the Army.

I have read and understand each of the statements above and in the DD Form 1966 series, signed by me, and understand that these statements are intended to constitute all promises whatsoever concerning my enlistment. Any other promise or representation of commitments made to me in connection with my enlistment is written below in my own handwriting, or is hereby waived (if none, write "NONE").

Contract Control Number CCN: 457681161

## AUTHENTICATION

SIGNATURE OF GUIDANCE COUNSELOR (Witness)	SIGNATURE OF APPLICANT	DATE
TYPED NAME, GRADE AND SSN OF COUNSELOR	TYPED NAME, SSN OF APPLICANT	DATE

**STATEMENT OF UNDERSTANDING**  
**(ARMY POLICY)**

For use of this form, see AR 601.210; the proponent agency is the Office of the Deputy Chief of Staff for Personnel.

**1. SURE PAY:**

a. As part of my enlistment contract, I hereby acknowledge and agree that I have the duty, as explained below, to establish and maintain an account with a United States financial institution (such as a bank, savings and loan, or credit union) for the direct deposit of my Army net pay and allowances.

b. I understand that within 3 months after completion of BT/AIT, or arrival at my first duty station, whichever is later, I am required to do the following:

(1) Establish an account with a US financial institution for direct deposit of my Army net pay and allowances,  
and

(2) Execute the appropriate forms at my finance office to ensure that my Army net pay and allowances are deposited directly into my account.

c. I understand I may freely choose or change US financial institutions to satisfy this requirement.

d. I understand that I will continue to have the duty to maintain such an account for direct deposit of my Army net pay and allowances so long as I remain on active duty, unless I receive a specific exemption from this requirement from the Army.

e. I understand that failure to perform the duty of establishing and maintaining such an account, in the absence of a specific exemption, may subject me to administrative action and/or disciplinary action under the Uniform Code of Military Justice.

**2. ALCOHOL AND DRUG ABUSE:**

a. I understand that the Army's policy on alcohol and drug abuse is as follows:

(1) The Army must prevent alcohol and drug abuse in order to perform its mission to defend the United States, to ensure its combat readiness, and to protect the health and welfare of its soldiers.

(2) I understand that service in the United States Army places me in a position of special trust and responsibility.

(3) Any drug or alcohol abuse by members of the United States Army is against the law, violates Army standards of behavior and duty performance, and will not be tolerated.

(4) The use of narcotics, dangerous drugs, or marijuana can seriously harm my health and safety and the health and safety of other soldiers.

(5) The use of narcotics, dangerous drugs, or marijuana by soldiers can lead to criminal prosecution and/or discharge under other than honorable conditions.

(6) If I am identified for either alcohol or drug abuse, including the use or possession of marijuana, appropriate disciplinary and/or administrative action may be taken against me. This may include trial by court-martial or administrative separation from the Army.

b. I understand that certain MOSs in the Army cannot be performed by persons who have used marijuana or other drugs. If it is established that I have used drugs or marijuana and that usage disqualifies me for the MOS for which I entered the Army or have been awarded, I may be reclassified into another MOS.

**3. RELIGIOUS PRACTICE ACCOMMODATION:**

a. I understand the following policy on accommodation of religious practices in the Army:

(1) Department of the Army policy is to accommodate religious practices when accommodation will not have an adverse impact on military readiness, unit cohesion, standards, health, safety or discipline.

STATEMENT OF UNDERSTANDING — CONTINUED

(2) The Army places a high value on the rights of its soldiers to observe the tenets of their respective religions.

(3) Unit commanders are authorized to initially approve or deny requests for accommodation of religious practices. Conditions of accommodation may change based on military need.

(4) Policy guidelines are contained in AR 600-20 and AR 165-20 which my guidance counselor has available for me to read.

(5) I understand that the Army cannot guarantee accommodation of religious practices.

b. I further state that I have been given the opportunity to read or I have read the policy in AR 600-20 and AR 165-20.

4. I have read the following statement(s) of understanding which apply to my enlistment.

a. Statement of Understanding for USAR commissioned/warrant officers. I understand that I will automatically vacate my reserve commission/warrant, if I enlist in the Delayed Entry Program. \_\_\_\_\_

(Initials)

b. Statement of Understanding for ESL enlistee. I understand that I will be required to undergo English language training at the Defense Language Institute, English Language Center, Lackland Air Force Base, Texas, and that failure to attain an ECLT score of 70 by completion of training will result in separation from the Army. \_\_\_\_\_

(Initials)

c. Statement of Understanding for prior service enlistee. I understand that if I have enlisted for an MOS that is taught in the OSUT mode. I may be required to complete all or a portion of Basic Training, regardless of the period of my break in service.

(Initials)

d. Statement of Understanding I understand that I will be given a Pre-Basic Training Physical Fitness Test during my first 3 days at the Reception Station. Should I fail to meet the minimum requirements, I will be placed in a Fitness Training Unit (FTU) for a period not to exceed 3 weeks or until I can attain the minimum physical standards to enter Basic Training. \_\_\_\_\_

(Initials)

5. *M. J. ... 1205 13*  
Military Entrance Physical Strength Capacity Test (MEPSCAT) STATEMENT OF UNDERSTANDING: (Applicable only to applicants not meeting MEPSCAT)

a. I understand that the physical strength demands rating was developed to keep persons from being enlisted into MOS they may have difficulty performing as a result of physical requirements. My Military Entrance Physical Strength Capacity Test (MEPSCAT) indicated that I am unable to satisfy the physical strength requirements of MOS \_\_\_\_\_.

b. Having been advised that I lack the physical strength for this MOS, I elect to be enlisted and trained in this MOS.

c. I understand that if I cannot perform the duties prescribed for MOS \_\_\_\_\_, which I have read or viewed, I will be trained in and reclassified to another MOS in accordance with the needs of the Army. I understand that this training/reclassification will not give me a right to an early discharge or otherwise relieve me of any obligations I have under my enlistment agreement.

(Initials)

d. I also understand that if I have enlisted under option-9-17, US Army cash bonus enlistment option, I am also subject to the provisions of sub-paragraph (4) and (6) of that option and may not be paid the bonus or may be required to repay any bonus already paid or any unearned portion thereof. \_\_\_\_\_

(Initials)

6. This statement will be completed for applicants enlisting in the Regular Army who have no spouse and have surrendered custody of dependents. (Enter NA if not applicable)

*NA*

## STATEMENT OF UNDERSTANDING - CONTINUED

**ACKNOWLEDGEMENT/CERTIFICATION:**

1, \_\_\_\_\_, am the parent of \_\_\_\_\_

and certify that the child(ren) has (have) been placed in the custody of the other parent or another adult by court order or as provided by state law. I further certify that this custody agreement is intended to remain in full force and effect during the term for which I am now enlisting. I understand that if I regain custody of this (these) child(ren), either by court decree, or in accordance with applicable state law, or if the child(ren) are residing with me in lieu of the legal custodian, I will be processed for involuntary separation for fraudulent entry unless I can show that the regaining custody is not contrary to the above stated intent; (e.g., death or incapacity of other parent or custodian)."

My child(ren) are in the custody of: Name \_\_\_\_\_

Relationship \_\_\_\_\_ Address \_\_\_\_\_

Signature \_\_\_\_\_ Witness \_\_\_\_\_

7. I have read, acknowledge and fully understand the information above.

## AUTHENTICATION

TYPED NAME, RANK AND SSN OF GUIDANCE COUNSELOR

**SIGNATURE OF GUIDANCE COUNSELOR**

DATE \_\_\_\_\_

TYPED NAME AND SET OF APPLICANT

**SIGNATURE OF APPLICANT**

DATE \_\_\_\_\_





Fort Sill, Oklahoma

Be It Known That

PVT TERENCE HENDERSON

having successfully completed the

*13B10 - CPUS*

CLASS NUMBER 18-88

is hereby declared a

**Graduate**

In witness thereof, and by authority vested in us

We do award this

**Diploma**

Given at Fort Sill, Oklahoma, on this

the 19th day of MAY 1988

test:

A handwritten signature in cursive script, likely of the Colonel Field Artillery.

COLONEL FIELD ARTILLERY  
CDR, US ARMY FIELD ARTILLERY  
TRAINING CENTER

APPENDIX E

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TERENCE HENDERSON,

Plaintiff,

-against-

DEPT. OF THE ARMY; GERMANY; NATO;

Defendants.

24-CV-6641 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is appearing *pro se*, brings this action under the Court's federal question jurisdiction. By order dated September 7, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees. For the reasons set forth below, the Court dismisses this action.

**STANDARD OF REVIEW**

The Court must dismiss an IFP complaint, or portion thereof, that is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); *see Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998). The Court must also dismiss a complaint when the Court lacks subject matter jurisdiction. *See* Fed. R. Civ. P. 12(h)(3). While the law mandates dismissal on any of these grounds, the Court is obliged to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and interpret them to raise the "strongest [claims] that they suggest," *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474-75 (2d Cir. 2006) (internal quotation marks and citations omitted) (emphasis in original).

## BACKGROUND

Plaintiff filed this complaint naming the United States Department of the Army, Germany, and NATO, and invoking the Thirteenth and Fourteenth Amendments to the United States Constitution, “Art 121 UCMJ larceny and wrongful appropriation UCMJ Article 132 discrimination.” (ECF 1 ¶ IA.) The underlying events occurred in 1988 and 1990. (*Id.* ¶ III.) Attachments to the complaint include documents related to Plaintiff’s military service and his birth certificate.<sup>1</sup> (*Id.* at 10-25.) Plaintiff seeks payment of benefits from the Department of Veterans Affairs (“VA”): “Brave Riles – earmarked 1/25/88 Howitzer Battery 1<sup>st</sup> Squadron 3 (ACR) Ft. Bliss White Glove Service 2 Billion Dollars.” (*Id.* ¶ IV.)

## DISCUSSION

To the extent Plaintiff seeks review of benefits he believes he is owed stemming from his military service, the Court must dismiss Plaintiff’s claims because the Court lacks subject matter jurisdiction of this matter. In 1988, Congress enacted the Veterans’ Judicial Review Act (“VJRA”), establishing judicial review procedures for veterans’ benefits determinations. *See* VJRA, Pub. L. No. 100-687, 102 Stat. 4105, 4113 4121 (1988) (codified in 38 U.S.C.), *as amended*; *see Henderson ex rel. Henderson v. Shinkseki*, 562 U.S. 428, 432 (2011); *Larrabee by Jones v. Derwinski*, 968 F.2d 1497, 1501 (2d Cir. 1992). Under the VJRA, the benefits determinations of the Secretary of Veterans Affairs may be appealed to the Board of Veterans’ Appeals, whose decisions may be appealed to the United States Court of Appeals for Veterans

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<sup>1</sup> Plaintiff complaint includes documents containing private data. Federal Rule of Civil Procedure 5.2(a) requires that a litigant redact references to such information in court filings, but Fed. R. Civ. P. 5.2(h) provides that “[a] person waives the protection of Rule 5.2(a) as to the person’s own information by filing it without redaction and not under seal.” In light of Plaintiff’s *pro se* status, the Court directed the Clerk of Court to place Plaintiff’s original complaint in “party-view only” status in the Court’s CM/ECF database.

Claims, and then to the United States Court of Appeals for the Federal Circuit. *See* 38 U.S.C. §§ 7104, 7252, 7292. This review structure excludes federal district courts from reviewing disputes involving veteran's benefits. *See* 38 U.S.C. § 511; *Capezza v. Brown*, 159 F.3d 1345 (2d Cir. 1998) (table decision); *Larrabee by Jones*, 968 F.2d at 1501 ("Although district courts continue to have 'jurisdiction to hear *facial* challenges of legislation affecting veterans' benefits,' other constitutional and statutory claims must be pursued within the appellate mill Congress established in the VJRA.") (italics in original, citation omitted); *Kramer v. Shulkin*, No. 16-CV-6174 (WHP), 2017 WL 4350322, at \*1 (S.D.N.Y. May 19, 2017); *Philippeaux v. United States*, No. 10-CV-6143 (NRB), 2011 WL 4472064, at \*5 (S.D.N.Y. Sept. 27, 2011). In short, the VJRA divests federal district courts of jurisdiction to review claims regarding the provision of veterans' benefits. *See Veterans for Common Sense v. Shinseki*, 678 F.3d 1013, 1023 (9th Cir. 2012) ("In general, review of decisions made in the context of an individual veteran's VA benefits proceedings are beyond the jurisdiction of federal courts outside the review scheme established by the VJRA.").

Here, Plaintiff appears to challenge a VA decision concerning his entitlement to veterans' benefits. To do so, however, he must follow the procedures laid out in the VJRA. Because this system of review excludes the federal district courts, Plaintiff's claims are dismissed without prejudice for lack of subject matter jurisdiction. *See* Fed. R. Civ. P. 12(h)(3); *Hernandez v. Conriv Realty Assocs.*, 182 F.3d 121, 123 (2d Cir. 1999) ("[W]here a court lacks subject matter jurisdiction, it also lacks the power to dismiss with prejudice.").<sup>2</sup>

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<sup>2</sup> Plaintiff filed a complaint against the Department of Veterans Affairs asserting similar claims to those set forth here. *See Henderson v. Dep't of Veterans Affairs*, No. 24-CV-5016 (LTS) (S.D.N.Y. Jan. 2, 2025) (dismissing complaint for lack of subject matter jurisdiction).

District courts generally grant a *pro se* plaintiff an opportunity to amend a complaint to cure its defects, but leave to amend is not required where it would be futile. *See Hill v. Curcione*, 657 F.3d 116, 123–24 (2d Cir. 2011); *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Because the defects in Plaintiff’s complaint cannot be cured with an amendment, the Court declines to grant Plaintiff leave to amend his complaint.

### CONCLUSION

Plaintiff’s complaint, filed IFP under 28 U.S.C. § 1915(a)(1), is dismissed for lack of subject matter jurisdiction. *See Fed. R. Civ. P. 12(h)(3)*.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

The Court directs the Clerk of Court to enter judgment.

SO ORDERED.

Dated: February 14, 2025  
New York, New York

/s/ Laura Taylor Swain  
LAURA TAYLOR SWAIN  
Chief United States District Judge