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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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De Etta Diane Conway,

No. CV-20-02199-PHX-JAT

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Plaintiff,

ORDER

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v.

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Commissioner of Social Security
Administration,

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Defendant.

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Pending before the Court is Plaintiff’s application to proceed in forma pauperis. Plaintiff claims a monthly income of approximately \$4,275.00 between herself and her spouse.¹ Plaintiff further claims to have savings of approximately \$22,000 and real estate holdings worth \$240,000 including a residence and another investment property.

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Plaintiff and her spouse have approximately \$4,870 in monthly expenses. These expenses include, for example, \$1,200/month on food due in part to the fact that Plaintiff chooses to support four adult children and grandchildren. These dependents range in age from 19 to 26 years old. (Doc. 2 at 3). By way of further example, Plaintiff lists owning one 1997 and one 1999 vehicle, valued together at \$5,000, but paying over \$3,100 per year in car insurance presumably to insure other people’s vehicles.

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In *Escobedo v. Applebees*, 787 F.3d 1226, 1234-36 (9th Cir. 2015), the Court of Appeals discussed that a plaintiff’s expenses exceeding their income would be a basis for granting in forma pauperis status. However, in that case, there was no evidence that the

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¹ Arizona is a community property state.

1 plaintiff's expenses were inflated due to plaintiff choosing to support multiple adults other
2 than plaintiff.

3 Here, in sum, Plaintiff has over \$50,000 per year in income and over \$250,000 in
4 assets but chooses to spend those resources in a way that makes her unable to meet her
5 monthly expenses. While Plaintiff can elect to spend her money how she chooses, that
6 does not mean she is actually unable to pay the filing fee. She is instead choosing to spend
7 her money on items other than the filing fee. Thus, Plaintiff has the resources to pay and
8 in forma pauperis status will be denied.


9 Based on the foregoing,

10 **IT IS ORDERED** that the application to proceed in forma pauperis (Doc. 2) is
11 denied.

12 **IT IS FURTHER ORDERED** that Plaintiff shall pay the filing fee within 7 days
13 of this Order, or the Clerk of the Court shall dismiss this case (without prejudice) and enter
14 judgment accordingly.

15 Dated this 17th day of November, 2020.

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James A. Teilborg
Senior United States District Judge