UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

TERESA URSUA-HOLMES,) Case No.: 1:15-cv-00843 - JLT
Plaintiff, v.	ORDER TO PLAINTIFF TO SHOW CAUSE WHY HER MOTION TO PROCEED IN FORMA PAUPERIS SHOULD NOT BE DENIED
CAROLYN W. COLVIN, Acting Commissioner of Social Security,))
Defendant.))
))

The Court may authorize the commencement of an action without prepayment of fees "by a person who submits an affidavit that includes a statement of all assets such person . . . possesses [and] that the person is unable to pay such fees or give security therefor." 28 U.S.C. § 1915(a). Thus, an action may proceed despite a failure to prepay the filing fee only if leave to proceed in forma pauperis is granted by the Court. *See Rodriguez v. Cook*, 169 F.3d 1176, 1177, 1178 (9th Cir. 1999).

The Ninth Circuit has held "permission to proceed in forma pauperis is itself a matter of privilege and not a right; denial of an in forma pauperis status does not violate the applicant's right to due process." *Franklin v. Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984) (citing *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963)). In addition, the Court has broad discretion to grant or deny a motion to proceed IFP. *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990); *Weller*, 314 F.2d at 600-01. In making a determination, the Court "must be careful to avoid construing the statute so narrowly that a

1 litigant is presented with a Hobson's choice between eschewing a potentially meritorious claim or 2 foregoing life's plain necessities." Temple v. Ellerthorpe, 586 F.Supp. 848, 850 (D.R.I. 1984). 3 Plaintiff attest that she is not employed and has not been employed for the past twelve months. (Doc. 1 at 1.) However, Plaintiff has a retirement income of \$600 per month and began receiving 4 5 spousal support payments of \$1,500 per month in February 2015. (Id.) In addition, Plaintiff has received food stamps in the amount of \$112 per month since February 2015. (*Id.*) 6 7 Plaintiff reports that her monthly expenses (including rent, food, gas, medication, personal hygiene, insurance, and phone bill) total \$1,199 per month. (Doc. 5 at 3.) In addition, Plaintiff makes 8 payments on her credit card in the amount of \$400 per month. (Id.) Thus, Plaintiff's income exceeds 9 10 her expenses by more than \$600 per month. **ORDER** 11 12 As noted above, Plaintiff has not demonstrated an inability to provide herself with life's necessities while still paying her court costs. Thus, the Court **ORDERS**: 13 Within 21 days, Plaintiff SHALL show cause in writing why her motion to proceed in 14 1. 15 forma pauperis should not be denied. 16 Plaintiff is advised that her failure to respond timely to this order will result in a 17 recommendation that her motion to proceed in forma pauperis be denied. 18 IT IS SO ORDERED. 19 20 Dated: **June 16, 2015** /s/ Jennifer L. Thurston UNITED STATES MAGISTRATE JUDGE 21 22 23 24 25 26 27 28