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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DOMINGO ZAPATA,

 Plaintiff,

 v.

JOHN KUNKEL, TONI JONES, KEN
MOORE, and FERNANDO CHAVEZ,

 Defendants.

Case No. 1:17-cv-1319 LJO-BAM

**ORDER REQUIRING PLAINTIFF TO FILE
LONG FORM APPLICATION TO PROCEED
IN FORMA PAUPERIS**

TWENTY-ONE DAY DEADLINE

Plaintiff Domingo Zapata, appearing pro se, filed this civil action on October 5, 2017. (ECF No. 1.) Plaintiff did not pay the filing fee in this action and instead filed an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (ECF No. 3.) Upon review of Plaintiff’s application, it is not clear that Plaintiff meets the requirements in 28 U.S.C. § 1915.

Under section 1915(a), the Court “may authorize the commencement . . . of any suit . . . without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such [person] . . . possesses that the person is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a). A plaintiff “need not be absolutely destitute to obtain benefits of the in forma pauperis statute. But a plaintiff seeking IFP status must allege poverty with some particularity, definiteness and certainty.” *Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th Cir. 2015) (quotations and citations omitted).

According to the Department of Health and Human Services, the 2017 poverty guideline for a four-person household is \$24,600. U.S. Department of Health and Human Services, *Poverty Guidelines*, <https://aspe.hhs.gov/poverty-guidelines> (last visited October 23, 2017); Annual Update of the HHS Poverty Guidelines, 81 Fed. Reg. 4036 (August 31, 2017). In this case,

1 Plaintiff, the head of household for his three dependent children, reported that he receives at least
2 \$2,880 per month from his long term disability which translates to an annual income of \$34,560.
3 Under a four-person household, Plaintiff's income level is therefore \$9,960 above the poverty
4 guideline. Without sufficient detail, Plaintiff, however also lists his monthly expenses at \$2,890
5 including (\$1,450 in rent, \$700 in utilities, \$120 insurance, \$300-\$400 in groceries, and \$220 for
6 a "medical insurance dependent"). While Plaintiff's monthly income exceeds the indigence
7 threshold; his monthly expenses arguably approximate his monthly income. In order to determine
8 whether Plaintiff meets the IFP requirements, more specificity is needed to determine the nature
9 of Plaintiff's expenses. Therefore, the Court will order Plaintiff to complete and file an
10 Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) – AO
11 239. If Plaintiff is unwilling to complete and submit the long form application, Plaintiff must pay
12 the filing fee in full.

13 Accordingly, IT IS HEREBY ORDERED THAT:

- 14 1. The Clerk of the Court is directed to forward an in forma pauperis application
15 (Long Form) to Plaintiff;
- 16 2. Within twenty-one (21) days of the date of this order, Plaintiff shall either (1) pay
17 the \$400.00 filing fee for this action, or (2) file an application to proceed in forma
18 pauperis without prepayment of the fee; and
- 19 3. If Plaintiff fails to comply with this order, this action shall be dismissed.

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21 IT IS SO ORDERED.

22 Dated: October 24, 2017

23 /s/ Barbara A. McAuliffe
24 UNITED STATES MAGISTRATE JUDGE
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