UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

JOUDON VAN HOPE-EL,) Case No.: 1:18-cv-0441-DAD-JLT
Plaintiff,	ORDER TO PLAINTIFF TO SHOW CAUSE WHY HIS MOTION TO PROCEED IN FORMA PAUPERIS SHOULD NOT BE DENIED
U.S. DEPARTMENT OF STATE et al., Defendants.)))))
)

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 litigant is presented with a Hobson's choice between eschewing a potentially meritorious claim or

foregoing life's plain necessities." Temple v. Ellerthorpe, 586 F.Supp. 848, 850 (D.R.I. 1984). Plaintiff reports that he is currently employed and his "take-home salary" is \$1,800.00 every two weeks. (Doc. 2 at 1) He asserts that he makes rent payments in the amount of \$400 and monthly car payments in the amount of \$754. (Id. at 2) Thus, Plaintiff's reported income exceeds the identified expenses by more than \$2,400 per month. Further, Plaintiff reports he has \$1,300 in a checking account and \$900 in savings. (*Id.*) Accordingly, the information provided does not support the conclusion that Plantiff is unable to to provide himself with life's necessities while still paying court costs. **ORDER** Based upon the foregoing, the Court **ORDERS**: 1. Within 21 days, Plaintiff **SHALL** show cause in writing why the motion to proceed in forma pauperis should not be denied. Alternatively, within 21 days, Plaintiff may pay the filing fee. Plaintiff is advised that failure to respond timely to this order will result in a recommendation that his motion to proceed in forma pauperis be denied. IT IS SO ORDERED. Dated: **April 26, 2018** /s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE