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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

ANNE KIMIKO AYERS,

Plaintiff,

v.

FELLOWSHIP OF CHRISTIAN  
ATHLETES, et al.,

Defendants.

Case No. 1:18-cv-01026-AWI-SAB

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING DENYING  
APPLICATION TO PROCEED IN FORMA  
PAUPERIS

(ECF No. 3, 5)

OBJECTIONS DUE WITHIN FOURTEEN  
DAYS

On July 30, 2018, Plaintiff Anne Kimiko Ayers (“Plaintiff”) filed a civil rights complaint in this action pursuant to 42 U.S.C. § 1983. (ECF No. 2.) Along with her complaint, Plaintiff filed an application to proceed in forma pauperis without prepayment of the filing fee. (ECF No. 3.) Upon review of Plaintiff’s application, the Court found that it did not demonstrate Plaintiff was unable to pay the filing fee so an order issued requiring Plaintiff to file a long form application to proceed in forma pauperis to address her household income and expenses. (ECF No. 4.) On August 1, 2018, Plaintiff filed a long form application to proceed without prepayment of fees. (ECF No. 5.)

Pursuant to 28 U.S.C. § 1915, federal courts can authorize the commencement of any suit without prepayment of fees by a person who submits an affidavit demonstrating that the person is unable to pay such fees. 28 U.S.C. § 1915(a)(1). “[A]n affidavit is sufficient which states that

1 one cannot because of his poverty ‘pay or give security for the costs . . . and still be able to  
2 provide’ himself and dependents ‘with the necessities of life.’ ” Adkins v. E.I. DuPont de  
3 Nemours & Co., 335 U.S. 331, 339 (1948). “When a claim of poverty is made under section  
4 1915 ‘it is proper and indeed essential for the supporting affidavits to state the facts as to  
5 affiant’s poverty with some particularity, definiteness and certainty.’ ” United States v.  
6 McQuade, 647 F.2d 938, 940 (9th Cir. 1981) (quoting Jefferson v. United States, 277 F.2d 723,  
7 725 (9th Cir. 1960)).

8 In the application to proceed without prepayment of fees, Plaintiff states that she receives  
9 income of \$132.00 per month which she will be continuing to receive into September 2018. She  
10 has \$1,300.00 in her checking account and expenses of \$20.00 per month for transportation and  
11 \$20.00 per month for recreation for a total monthly expense of \$40.00. Plaintiff states that she  
12 will begin college in the fall and will be looking for employment after she checks into her dorm.  
13 It would appear from the application filed that Plaintiff’s living expenses are paid by her parents.  
14 Plaintiff has not addressed her household income and expenses as directed by the July 31, 2018  
15 order. Plaintiff has not demonstrated that that she is unable to pay the filing fee in this matter.

16 Review of Plaintiff’s application to proceed in forma pauperis demonstrates that she has  
17 the ability to pay the \$400.00 filing fee in this action. The Court finds that Plaintiff is not  
18 eligible to proceed in forma pauperis under 28 U.S.C. § 1915.

19 Accordingly, it is HEREBY RECOMMENDED that Plaintiff’s application to proceed in  
20 forma pauperis be DENIED.

21 These findings and recommendations are submitted to the district judge assigned to this  
22 action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court’s Local Rule 304. Within fourteen  
23 (14) days of service of this recommendation, any party may file written objections to these  
24 findings and recommendations with the Court and serve a copy on all parties. Such a document  
25 should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” The  
26 district judge will review the magistrate judge’s findings and recommendations pursuant to 28  
27 U.S.C. § 636(b)(1)(C). The parties are advised that failure to file objections within the specified  
28 time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th

1 Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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IT IS SO ORDERED.

Dated: August 2, 2018



UNITED STATES MAGISTRATE JUDGE