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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MATTHEW BOULAS,
Plaintiff,
v.
UNITED STATES POSTAL SERVICE,
Defendant.

Case No. 1:18-cv-01163-LJO-BAM
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS RECOMMENDING
PLAINTIFF’S MOTION FOR LEAVE TO
PROCEED IN FORMA PAUPERIS BE
DENIED
ORDER DENYING AMENDED
APPLICATION TO PROCEED IN FORMA
PAUPERIS
(Doc. Nos. 2,3 and 4)

Plaintiff Matthew Boulas (“Plaintiff”) is proceeding pro se in this civil matter. Plaintiff initiated this action on August 27, 2018. (Doc. 1). On the same day, Plaintiff filed an application to proceed *in forma pauperis* under 28 U.S.C. § 1915. (Doc. 2).

On September 18, 2018, the assigned Magistrate Judge issued findings and recommendations that Plaintiff’s application to proceed without prepayment of fees and costs (Doc. 2) be denied, and Plaintiff be required to pay the \$400.00 filing fee in full to proceed with this action. (Doc. No. 3.) The findings and recommendations were served on Plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (Id.) On October 1, 2018, in lieu of formal objections, Plaintiff filed an amended application to proceed in *forma pauperis*. (Doc. No. 4.)

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the undersigned has
2 conducted a de novo review of this case, including the amended application to proceed in forma
3 pauperis. The Court finds that the findings and recommendations are supported by the record and
4 by proper analysis. Even if the Court were to construe Plaintiff's amended application as an
5 objection to the Magistrate Judge's findings and recommendations, Plaintiff has failed to make the
6 requisite showing that he is unable to pay the required fees for this action pursuant to 28 U.S.C. §
7 1915(a).

8 Plaintiff's initial application indicated that he received take-home pay or wages in the
9 amount of \$1,840.00 per month, and \$420.00 per week in state disability benefits. (Doc. No. 2 at
10 1.) In his amended application, however, Plaintiff now asserts that he does not receive gross pay
11 or wages, but instead receives an unspecified amount in disability or worker's compensation
12 payments. (Doc. No. 4.) Plaintiff's application is incomplete and does not appear to be a true and
13 correct statement regarding the amount of monthly income that he receives from any source. Even
14 assuming Plaintiff does not receive any take-home pay or wages, his amended application
15 represents to this Court that he receives state disability benefits. He has omitted from his amended
16 application the exact amount of those benefits, leaving the original application, which indicates he
17 receives \$420.00 per week in state benefits, as the only evidence related to those benefits. This
18 amounts to an income of at least \$21,840.00.¹ The Court concludes that Plaintiff has not made the
19 requisite showing to justify permitting him to proceed without prepayment of the filing fee.

20 Accordingly, IT IS HEREBY ORDERED as follows:

- 21 1. The findings and recommendations issued on September 18, 2018, are adopted in
22 full;
- 23 2. Plaintiff's applications to proceed without prepayment of fees and costs (Doc. Nos.

24 ¹ Many courts look to the federal poverty guidelines set by the United States Department of Health and Human
25 Services ("HHS") as a guidepost in evaluating in forma pauperis applications. *See Martinez v. Kristi Kleaners, Inc.*,
26 364 F.3d 1305, 1307 n.5 (11th Cir. 2004). For a family of two, the present poverty guideline is \$16,460. *See* U.S.
27 Federal Poverty Guidelines Used to Determine Financial Eligibility for Certain Federal Programs, *available at*
28 <https://aspe.hhs.gov/poverty-guidelines> (last visited October 31, 2018). Also relevant is the fact that, assuming
Plaintiff receives \$420.00 a week in state benefits, his income is above his stated expenses. *Lopez-Ruiz v. Tripler*
Army Med. Ctr.'s Postdoctoral Fellowship in Clinical Psychology, No. CV. 11-0066 JMS/BMK, 2011 WL 486952,
at *1 (D. Haw. Feb. 4, 2011) (denying in forma pauperis status to plaintiff whose income was \$1,800 per month and
whose monthly income exceeded monthly expenses).

1 2 and 4) are denied; and

2 3. Within thirty (30) days, Plaintiff shall pay the \$400.00 filing fee in full in order to
3 proceed with this action.

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5 IT IS SO ORDERED.

6 Dated: October 31, 2018

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE

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