

1 affidavit demonstrating that she “is unable to pay such fees or give security therefor.” 28 U.S.C. §
2 1915(a)(1). The right to proceed without prepayment of fees in a civil case is a privilege and not a
3 right. *Rowland v. California Men’s Colony, Unit II Men’s Advisory Council*, 506 U.S. 194, 198
4 n.2 (1993); *Franklin v. Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984) (“permission to proceed *in*
5 *forma pauperis* is itself a matter of privilege and not right; denial of *in forma pauperis* status does
6 not violate the applicant’s right to due process”) (emphasis added). A plaintiff need not be
7 absolutely destitute to proceed *in forma pauperis* and the application is sufficient if it states that
8 due to her poverty, she is unable to pay the costs and still be able to provide herself and her
9 dependents with the necessities of life. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331,
10 339 (1948). Whether to grant or deny an application to proceed without prepayment of fees is an
11 exercise of the district court’s discretion. *Escobedo v. Applebees*, 787 F.3d 1226, 1236 (9th Cir.
12 2015).

13 **II. Screening Requirement**

14 When a party seeks to proceed *in forma pauperis*, the Court is required to review the
15 complaint and shall dismiss the complaint, or portion thereof, if it is “frivolous, malicious or fails
16 to state a claim upon which relief may be granted; or...seeks monetary relief from a defendant
17 who is immune from such relief.” 28 U.S.C. §§ 1915(b) & (e)(2). A plaintiff’s claim is frivolous
18 “when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not
19 there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*, 504 U.S.
20 25, 32-33 (1992).

21 **III. Pleading Standards**

22 A complaint must include a statement affirming the court’s jurisdiction, “a short and plain
23 statement of the claim showing the pleader is entitled to relief; and...a demand for the relief sought,
24 which may include relief in the alternative or different types of relief.” Fed. R. Civ. P. 8(a). The
25 purpose of the complaint is to give the defendant fair notice of the claims, and the grounds upon
26 which the complaint stands. *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002). As set forth
27 by the Supreme Court, Rule 8:
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1 ... does not require detailed factual allegations, but it demands more than an
2 unadorned, the-defendant-unlawfully-harmed-me accusation. A pleading that offers
3 labels and conclusions or a formulaic recitation of the elements of a cause of action
will not do. Nor does a complaint suffice if it tenders naked assertions devoid of
further factual enhancement.

4 *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009) (internal quotation marks and citations omitted).
5 Vague and conclusory allegations do not support a cause of action. *Ivey v. Board of Regents*, 673
6 F.2d 266, 268 (9th Cir. 1982). The *Iqbal* Court clarified further,

7 [A] complaint must contain sufficient factual matter, accepted as true, to “state a
8 claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S.
9 544, 570 (2009). A claim has facial plausibility when the plaintiff pleads factual
10 content that allows the court to draw the reasonable inference that the defendant is
11 liable for the misconduct alleged. *Id.* at 556. The plausibility standard is not akin
to a “probability requirement,” but it asks for more than a sheer possibility that a
defendant has acted unlawfully. *Id.* Where a complaint pleads facts that are “merely
consistent with” a defendant’s liability, it “stops short of the line between possibility
and plausibility of “entitlement to relief.”

12 *Iqbal*, 556 U.S. at 678. When factual allegations are well-pled, a court should assume their truth
13 and determine whether the facts would make the plaintiff entitled to relief; legal conclusions are
14 not entitled to the same assumption of truth. (*Id.*) The Court may grant leave to amend a complaint
15 to the extent deficiencies of the complaint can be cured by an amendment. *Lopez v. Smith*, 203
16 F.3d 1122, 1127-28 (9th Cir. 2000) (en banc).

17 **IV. Discussion and Analysis**

18 Plaintiff seeks review of a decision by the Commissioner of Social Security denying
19 disability benefits. (Doc. 1). The Court may have jurisdiction pursuant to 42 U.S.C. § 405(g),
20 which provides:

21 Any individual after any final decision of the Commissioner made after a hearing to
22 which he was a party, irrespective of the amount in controversy, may obtain a review
23 of such decision by a civil action commenced within sixty days after the mailing to
24 him of such decision or within such further time as the Commissioner may allow.
Such action shall be brought in the district court of the United States for the judicial
25 district in which the plaintiff resides or has his principal place of business...The
court shall have power to enter, upon the pleadings and transcript of the record, a
judgment affirming, modifying, or reversing the decision of the Commissioner of
Social Security, with or without remanding the cause for a rehearing.

26 *Id.* Except as provided by statute, “[n]o findings of fact or decision of the Commissioner shall be
27 reviewed by any person, tribunal, or governmental agency.” 42 U.S.C. § 405(h).

28 Plaintiff alleges the Appeals Council issued a notice denying a request for review of the

1 decision on February 1, 2024, after which Plaintiff had 60 days, plus five days for delivery by mail,
2 to file a civil action. (Doc. 1 ¶ 2). Thus, Plaintiff’s complaint is timely. Plaintiff states that she
3 resides in Fresno, California, County of Fresno. *Id.* at ¶ 4. Therefore, the Court has jurisdiction
4 over this action.

5 **A. Plaintiff’s IFP Application**

6 In assessing whether an applicant’s income level meets the poverty threshold under
7 Section 1915(a)(1), courts look to the federal poverty guidelines developed each year by the
8 Department of Health and Human Services. *See, e.g., Boulas v. United States Postal Serv.*, No.
9 1:18-CV-01163-LJO-BAM, 2018 WL 6615075, at *1 n.1 (E.D. Cal. Nov. 1, 2018); *Calderon v.*
10 *Commissioner of Social Security*, No. 1:22-CV-00890-SAB, 2022 WL 3088494, at *1 (E.D. Cal.
11 July 27, 2022); *Trimm v. Commissioner of Social Security*, No. 1:22-CV-00663-BAM, 2022 WL
12 2239701, at *1 (E.D. Cal. Jun. 6, 2022) (collecting cases). The 2023 Poverty Guidelines for the
13 48 contiguous states provide that the poverty threshold for a household of two is \$20,440.¹

14 In the long-form application, Plaintiff represents that her husband’s monthly income is
15 \$4,160.00. (Doc. 4 at 1-2). Plaintiff represents her family has \$168.00 in a checking account and
16 \$16,605.85 in a 401K. *Id.* at 2. Plaintiff states her family owns a Toyota Corolla 2014 valued at
17 \$5,600.00, and a Liberty Jeep 2009 valued at \$1,399.00. *Id.* at 3.

18 Plaintiff claims monthly household expenses of approximately \$4,066.00 which is slightly
19 below her family’s monthly income. *Id.* at 4-5. Specifically, Plaintiff claims \$1,550 in rent/home
20 mortgage payments, \$800 for utilities, and \$850 for food. *Id.* at 4. Plaintiff asserts that she spends
21 \$175 on clothing and laundry, \$100 on medical and dental expenses, and \$110 on motor vehicle
22 insurance payments. *Id.* In addition, Plaintiff notes she has installment payments (credit card,
23 department store, etc.) in the amount of \$506 per month. *Id.*

24 The completed long-form application reflects that Plaintiff’s income is well above the
25 poverty line, but her monthly joint income is slightly above her estimated expenses. Plaintiff asserts
26 she has difficulty paying any bills and has difficulty affording her medication. Plaintiff’s estimated
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28 ¹See HHS Poverty Guidelines for 2024 <https://aspe.hhs.gov/poverty-guidelines> (last visited March 28, 2024).

1 expenses do not appear exorbitant or implausible. While Plaintiff does not appear to be destitute,
2 Plaintiff's long-form application suggests that her financial situation is fragile enough that payment
3 of the \$402.00 filing fee would have an adverse impact on her necessities of daily life.

4 **V. Conclusion and Order**

5 Plaintiff's complaint states a cognizable claim for review of the administrative decision
6 denying Social Security benefits and her IFP application also demonstrates that she cannot pay the
7 filing fee without negatively affecting her necessities of daily life.

8 ACCORDINGLY, IT IS HEREBY ORDERED that Plaintiff's application to proceed *in*
9 *forma pauperis* (Docs. 2, 4) is GRANTED. The Clerk of Court is directed to issue the following:

- 10 1) a Summons; 2) the Scheduling Order; 3) the Order re Consent or Request for Reassignment; and
11 4) a Consent to Assignment or Request for Reassignment form.

12 IT IS SO ORDERED.

13 Dated: March 28, 2024

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16 UNITED STATES MAGISTRATE JUDGE

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