

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATTIE A. COXEY,

Plaintiff,

No. CIV S-09-2530 EFB

vs.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

ORDER

Defendant.

_____/

Plaintiff has requested authority under 28 U.S.C. § 1915 to proceed *in forma pauperis*, and has submitted an affidavit purporting to demonstrate that she is unable to prepay fees and costs or give security for them. Dckt. No. 2. However, plaintiff states in her application and affidavit that she owns a certificate of deposit (“CD”) worth \$15,500 (with a maturity date of December 2010) and a 2007 Ford Edge AWD, and that her “husband drives to work.” Because the affidavit does not provide any information about plaintiff’s monthly expenses or about her husband’s income, the affidavit is insufficient to evaluate whether plaintiff can pay or give security for court costs and still be able to provide herself with the necessities of life. *See Adkins v. E.I. Dupont de Nemours & Co.*, 335 U.S. 331, 339 (1948); *see also Monti v. McKeon*, 600 F. Supp. 112, 114 (D. Conn. 1984) (“in ruling on motions to proceed *in forma pauperis*, . . . courts have considered the income of interested persons, such as spouses and parents, in

1 evaluating the funds available to the movant. . . . If the plaintiff is supported by her spouse, and
2 her spouse is financially able to pay the costs of this appeal, it follows that the plaintiff's own
3 lack of funds will not prevent her from gaining access to the courts.").

4 Accordingly, plaintiff is directed to file, within ten days of this order, a further affidavit
5 containing information regarding her husband's income and whether she is supported by that
6 income, and an accounting of her monthly expenses. The court will then resume consideration
7 of plaintiff's application to proceed *in forma pauperis*.

8 SO ORDERED.

9 DATED: September 14, 2009.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26