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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WENDY SUSAN ARMSTRONG,
Plaintiff,
v.
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

No. 2:14-cv-1305-KJN

ORDER

Plaintiff Wendy Susan Armstrong, represented by counsel, commenced this social security action on May 28, 2014. (ECF No. 1.)¹ On June 4, 2014, the court denied plaintiff's motion to proceed *in forma pauperis*, because it was incomplete and/or unclear in several respects. (See ECF No. 3.) However, the court granted plaintiff leave to file an amended motion within 28 days. (Id.)

Thereafter, on June 28, 2014, plaintiff timely filed a second motion to proceed *in forma pauperis*. (ECF No. 4.) The affidavit in support of the motion, which has now been properly completed, states that plaintiff inherited \$30,000.00 from her father in March 2014, of which she spent about half on paying bills. Thus, plaintiff presently has about \$15,000.00 remaining in her savings account. She also owns a 2007 Honda Ridgeline valued at approximately \$12,000.00;

¹ This case was referred to the undersigned pursuant to E.D. Cal. L.R. 302(c)(15).

1 two non-operational vehicles; and her home, which is valued at approximately \$110,000.00.

2 Plaintiff has no dependents.

3 Presently, a filing fee of \$400 is required to commence a civil action in this court. The
4 court may authorize the commencement of an action “without prepayment of fees or security
5 therefor” by a person that is unable to pay such fees or provide security therefor. 28 U.S.C. §
6 1915(a)(1). Here, the court cannot find that plaintiff is unable to pay, or provide security for, the
7 court filing fee, particularly in light of her substantial cash assets. The court is sympathetic to the
8 fact that the inheritance from plaintiff’s father was a one-time bequest and that plaintiff no doubt
9 wishes to use the money for purposes other than court fees. Nevertheless, the court may not in
10 fairness ignore the bequest’s impact on plaintiff’s ability to pay the filing fee, particularly when
11 many other litigants with fewer available cash assets have been required to pay the filing fee.
12 Indeed, numerous litigants in this court have significant monthly expenditures and sometimes
13 face difficult choices as to which expenses to incur, which expenses to reduce or eliminate, and
14 how to apportion their income between such expenses and litigating an action in federal court.
15 Such difficulties in themselves do not amount to indigence.

16 Therefore, the court denies the motion to proceed *in forma pauperis*. Nevertheless, the
17 court also grants plaintiff leave to file a third and final motion to proceed *in forma pauperis*
18 demonstrating that she qualifies as indigent for purposes of 28 U.S.C. § 1915, if, and only if, she
19 believes in good faith that she can make such a showing in light of the requirements of the statute,
20 plaintiff’s prior representations, and the court’s observations above.

21 Accordingly, IT IS HEREBY ORDERED that:

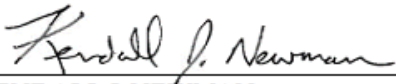
- 22 1. Plaintiff’s motion to proceed *in forma pauperis* (ECF No. 4) is denied without
23 prejudice.
- 24 2. Within 28 days of this order, plaintiff shall either submit a third motion to proceed *in*
25 *forma pauperis* in compliance with this order, or pay the applicable filing fee.

26 Alternatively, if plaintiff no longer wishes to pursue the action at this juncture, she
27 may instead file a request for voluntary dismissal without prejudice pursuant to
28 Federal Rule of Civil Procedure 41(a)(1)(A)(i).

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IT IS SO ORDERED.

Dated: July 1, 2014


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE