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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRYSTIE MORT DAVIS,
Plaintiff,
v.
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

No. 2:14-cv-2853-KJN

ORDER

Presently pending before the court is plaintiff’s motion for leave to proceed without the prepayment of fees and costs, also referred to as *in forma pauperis*, pursuant to 28 U.S.C. § 1915.¹ (ECF No. 2.) The affidavit in support of the motion states, *inter alia*, that plaintiff has \$3,000.00 in a checking account; owns a 2003 Pontiac Vibe and 2001 Dodge Ram of unknown value; and has investment accounts (stocks/Roth IRA/regular IRA) with a last-known value of approximately \$500,000.00. Plaintiff has no dependents.

Presently, a filing fee of \$400.00 is required to commence a civil action in this court. The court may authorize the commencement of an action “without prepayment of fees or security

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


1 therefor” by a person that is unable to pay such fees or provide security therefor. 28 U.S.C. §
2 1915(a)(1). Here, the court cannot find that plaintiff is unable to pay, or provide security for, the
3 court filing fee, particularly in light of her substantial investment account assets. The court is
4 sympathetic to the fact that funds in those accounts are likely intended for retirement and/or other
5 long-term purposes. Nevertheless, the court may not in fairness ignore the funds’ impact on
6 plaintiff’s ability to pay the filing fee, particularly when many other litigants with fewer available
7 cash assets have been required to pay the filing fee. Indeed, numerous litigants in this court have
8 significant monthly expenditures and sometimes face difficult choices as to which expenses to
9 incur, which expenses to reduce or eliminate, and how to apportion their income between such
10 expenses and litigating an action in federal court. Such difficulties in themselves do not amount
11 to indigence. Moreover, the court filing fee of \$400.00 is unlikely to significantly impact
12 plaintiff’s retirement savings.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Plaintiff’s motion to proceed *in forma pauperis* (ECF No. 2) is denied.
- 15 2. Within 28 days of this order, plaintiff shall pay the applicable filing fee. However, the
16 court will entertain a request for a reasonable extension of time to pay the fee should
17 such an extension be necessary.
- 18 3. Failure to timely pay the filing fee, or timely request an extension of time to do so,
19 may result in a recommendation of dismissal of the action pursuant to Federal Rule of
20 Civil Procedure 41(b).

21 IT IS SO ORDERED.

22 Dated: January 27, 2015

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25 KENDALL J. NEWMAN
26 UNITED STATES MAGISTRATE JUDGE
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