UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH CURTZWILER, et al.,

Plaintiffs,

v.

CLARK VANDEVENTER, et al.,

Defendants.

No. 2:16-cv-0315 MCE AC

ORDER

Defendants Clark Vandeventer and Monica Vandeventer, having removed this action from State court, have requested leave to proceed in forma pauperis ("IFP") pursuant to 28 U.S.C. § 1915. ECF No. 2 (original motion), 6 (amended motion). The IFP application was referred to the undersigned by the district judge presiding over this case. See ECF No. 4.[1]

Documents attached to the 24-page IFP application show that defendants have a gross annual income of $181,450 per year, and a net cash flow (that is, take-home pay less expenses) every month of $4,470. The undersigned concludes that the in forma pauperis application does not make the showing of poverty that is required by 28 U.S.C. § 1915(a)(1).

Defendant Clark Vandeventer asserts that he has a twice-per-month gross pay of $5,417,

[1] Defendants filed an amended IFP application after the initial referral, but the undersigned understands that the referral is still in effect, and that it applies to the amended motion.

with a twice-per-month take-home pay of $2,066.57.[2] ECF No. 6 at 3. This translates to a monthly gross pay of $11,737 ($140,842 per year), with a monthly take-home pay of $4,477.56 ($53,731 per year).

However, defendants have attached a pay stub for Clark Vandeventer, which appears to contradict these numbers. The pay stub indicates that Clark Vandeventer's "gross earnings" – which includes his "regular" pay plus several other items – was $6,508.08 for the two week period of "01/16/16 to 01/31/16," and that his "net pay" for that two-week period – as reflected in his pay stub – was $4,168.75. ECF No. 6-1 at 3. Thus, according to the pay stub, defendant's gross monthly pay is $14,100.84 ($169,210 per year), with a monthly take-home pay of $9,032 ($108,388 per year). Defendants' IFP application offers no explanation for the apparent discrepancy between Clark Vanderventer's asserted pay and the pay shown on his pay stub.

Defendant Monica Vandeventer discloses that she has a gross monthly pay of $1,020 ($12,240 per year) and a monthly take-home pay of $727 ($8,724 per year).

Defendants' combined take-home pay (using the numbers from Clark Vandeventer's pay stub) is $9,759 per month. That does not qualify them for in forma pauperis status, even after their stated "total expenses" of $5,289 per month are considered.

Accordingly, IT IS HEREBY ORDERED that defendants' request to proceed in forma pauperis (ECF Nos. 2, 6) is DENIED.

DATED: June 7, 2016

Allison Claire

ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

[2] Clark Vandeventer uses the term "bi-monthly." A paycheck annexed to the IFP application confirms that Clark Vandeventer's "regular" pay for the two-week period of "01/16/16 to 01/31/16" was $5,416.66.