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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAIME Y. CLAVITO,

Plaintiff,

v.

U.S. DEPARTMENT OF VETERANS'
AFFAIRS,

Defendant.

No. 2:18-cv-431-JAM-KJN PS

ORDER

Presently pending before the court is plaintiff's motion for leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (ECF No. 2.)

The affidavit in support of the motion indicates that plaintiff, who has no dependents, receives income of \$2,897.53 per month, i.e., approximately \$34,770.36 per year. According to the United States Department of Health and Human Services, the poverty guideline for a household of 1 person not residing in Alaska or Hawaii is \$12,140.00 for 2018. See <https://aspe.hhs.gov/poverty-guidelines>. Thus, plaintiff's gross household income is just under 300% of the 2018 poverty guideline.

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 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. To be sure, the court is sympathetic to the fact that plaintiff does not have a large
4 income, and also has several expenses to contend with. However, numerous litigants in this court
5 have significant monthly expenditures, and may have to make difficult choices as to which
6 expenses to incur, which expenses to reduce or eliminate, and how to apportion their income
7 between such expenses and litigating an action in federal court. Such difficulties in themselves
8 do not amount to indigency. Moreover, in this case, even if the court deducted all of plaintiff’s
9 listed expenses (\$2,050.00) from his listed monthly income (\$2,897.53), plaintiff has \$847.53 in
10 monthly income remaining, more than twice the amount of the court’s filing fee. Finally, the
11 court also notes that plaintiff reported having \$4,519.74 in his bank account.

12 Accordingly, IT IS HEREBY ORDERED that:

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

20 IT IS SO ORDERED.

21 Dated: April 3, 2018

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24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE
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