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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOEL JENNINGS WARNE,

Plaintiff,

v.

CITY AND COUNTY OF SAN  
FRANCISCO, et al.,

Defendants.

Case No.16-cv-06773-JSC

**ORDER DENYING PLAINTIFF'S  
MOTION FOR APPOINTMENT OF  
COUNSEL**

Re: Dkt. No. 135

Plaintiff moves for appointment of counsel under the Northern District of California's General Order 25 which provides for appointment of pro bono counsel through the Federal Pro Bono Project. (Dkt. No. 135.) To obtain appointment of counsel under General Order 25, a litigant must be proceeding in forma pauperis and lack the financial resources to retain counsel. See also *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) ("a court may under 'exceptional circumstances' appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1)"). Although Plaintiff initially paid the filing fee in state court, he filed an application to proceed in forma pauperis with his motion for appointment of counsel. (Dkt. No. 136.) Because the motion and application to proceed in forma pauperis demonstrate that Plaintiff is not indigent, his motion for appointment of counsel is DENIED.

The in forma pauperis statute, 28 U.S.C. § 1915, does not define what constitutes insufficient assets to constitute indigence. See *Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th Cir. 2015). While "one need not be absolutely destitute to obtain benefits of the in forma pauperis statute," "a plaintiff seeking IFP status must allege poverty with some particularity, definiteness

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and certainty.” Id. (internal citation and quotation marks omitted). Here, although Plaintiff is not employed because he is attending school full-time, the motion and supporting documentation reflect that Plaintiff has \$31,593.66 in a checking account and that he receives a monthly annuity of \$1,700 as well as rental income. (Dkt. No. 136 at 2-5.) Under these circumstances, Plaintiff has not alleged poverty with sufficient particularity or definiteness under Section 1915(e)(1) or General Order 25.

Plaintiff is, however, encouraged to contact the Legal Help Center, 450 Golden Gate Avenue, 15th Floor, Room 2796, Telephone No. (415)-782-8982, for free assistance regarding his claims.

This Order disposes of Docket Nos. 135 & 136.

**IT IS SO ORDERED.**

Dated: July 25, 2017

  
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JACQUELINE SCOTT CORLEY  
United States Magistrate Judge