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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HENRY L. CLARK,

Plaintiff,

v.

SOCIAL SECURITY APPEALS
COUNCIL,

Defendants.

Case No.: 16cv2710-JLS (AGS)

ORDER
(1) DENYING MOTION TO
PROCEED *IN FORMA PAUPERIS*
AND DISMISSING WITHOUT
PREJUDICE PLAINTIFF’S
COMPLAINT; AND
(2) DENYING AS MOOT
PLAINTIFF’S MOTION TO
APPOINT COUNSEL

(ECF Nos. 2, 3)

Presently before the Court is Plaintiff Henry L. Clark’s Motion to Proceed *In Forma Pauperis* (“IFP”). (“IFP Mot.”, ECF No. 2.) Also before the Court is Plaintiff’s Motion to Appoint Counsel. (“Counsel Mot.”, ECF No. 3.)

IFP MOTION

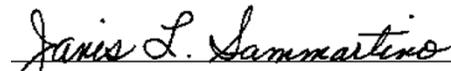
All parties instituting any civil action, suit, or proceeding in a district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of \$400. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff’s failure to prepay the entire fee only if he is granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C.

1 § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). A federal court
2 may authorize the commencement of an action without the prepayment of fees if the party
3 submits an affidavit, including a statement of assets, showing that he is unable to pay the
4 required filing fee. 28 U.S.C. § 1915(a).

5 In the present case, Plaintiff has submitted an affidavit indicating that his total
6 monthly income is \$61,309.64. (IFP Mot. 2,¹ ECF No. 2.) This may have been an error of
7 calculation, and the Court finds it is more plausible that Plaintiff meant he receives over
8 \$60,000 annually, and roughly \$5,500 monthly. (*Id.*) He does not expect any major changes
9 to his monthly income or expenses in the next twelve months. (*Id.* at 5.) He also lists two
10 cars as assets, totaling a value of roughly \$12,500.00. (*Id.* at 3.) Thus, while Plaintiff claims
11 to have no money in any bank account, (*id.* at 2), it appears Plaintiff can pay the requisite
12 filing fee. Accordingly, the Court **DENIES** Plaintiff's Motion to Proceed IFP and
13 **DISMISSES THE CASE WITHOUT PREJUDICE**. The Court also **DENIES AS**
14 **MOOT** Plaintiff's Motion to Appoint Counsel (ECF No. 3). Plaintiff may submit a copy
15 of this order along with the requisite fee on or before March 3, 2017 to have the case
16 reopened.

17 **IT IS SO ORDERED.**

18 Dated: February 3, 2017


19 Hon. Janis L. Sammartino
20 United States District Judge
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¹ Pin citations refer to the CM/ECF numbers electronically stamped at the top of each page.