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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 STEVEN MICHAEL ELDRIDGE,
12 Plaintiff,
13 v.
14 NANCY A. BERRYHILL, Acting
15 Commissioner of Social Security,
16 Defendant.

Case No.: 17cv497-JLS (BLM)

**ORDER GRANTING MOTION TO
PROCEED *IN FORMA PAUPERIS*
AND DISMISSING WITHOUT
PREJUDICE PLAINTIFF'S
COMPLAINT**

(ECF No. 2)

17
18 Presently before the Court is Plaintiff Steven Michael Eldridge's Motion to Proceed
19 *In Forma Pauperis* ("IFP Mot."). (ECF No. 2.) Plaintiff has filed an action requesting that
20 this Court review and reverse the Social Security Administration's ("SSA") denial of
21 benefits, or in the alternative, remand the matter for a new hearing. (Compl. ¶ 9, ECF No.
22 1.)

23 **IFP MOTION**

24 All parties instituting any civil action, suit, or proceeding in a district court of the
25 United States, except an application for writ of habeas corpus, must pay a filing fee of
26 \$400. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to prepay
27 the entire fee only if he is granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C.
28 § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). A federal court

1 may authorize the commencement of an action without the prepayment of fees if the party
2 submits an affidavit, including a statement of assets, showing that she is unable to pay the
3 required filing fee. 28 U.S.C. § 1915(a).

4 In the present case, Plaintiff has submitted an affidavit indicating that his sole source
5 of income is from public assistance in the amount of \$194.00 a month. (IFP Mot. 2.)
6 Plaintiff is not currently employed, has no cash or other assets, and indicates that his
7 “parents help [him] with [his] rent and bill[s]” because he “only receive[s] food stamps.”
8 (*Id.* at 2–3, 5.) Plaintiff estimates his monthly expenses to be \$333. (*Id.* at 5.) Although
9 Plaintiff has failed to fill out several parts of his IFP Application, (*id.* at 5 (questions 9, 10,
10 13)), the Court nonetheless concludes that Plaintiff’s application demonstrates he is unable
11 to pay the requisite fees and costs regardless of any of Plaintiff’s potential responses to the
12 unanswered questions. Accordingly, the Court **GRANTS** Plaintiff’s Motion to Proceed
13 IFP.

14 **Screening Pursuant to 28 U.S.C. §§ 1915(e)(2) & 1915A(b)**

15 The Court must screen every civil action brought pursuant to 28 U.S.C. § 1915(a)
16 and dismiss any case it finds “frivolous or malicious,” “fails to state a claim on which relief
17 may be granted,” or “seeks monetary relief against a defendant who is immune from relief.”
18 28 U.S.C. § 1915(e)(2)(B); *see also Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001)
19 (“[T]he provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners.”); *Lopez v.*
20 *Smith*, 203 F.3d 1122, 1126–27 (9th Cir. 2000) (en banc) (noting that 28 U.S.C. § 1915(e)
21 “not only permits but requires a district court to dismiss an in forma pauperis complaint
22 that fails to state a claim”).

23 As amended by the Prison Litigation Reform Act (“PLRA”), 28 U.S.C. § 1915(e)(2)
24 mandates that the court reviewing an action filed pursuant to the IFP provisions of § 1915
25 make and rule on its own motion to dismiss before directing the Marshal to effect service
26 pursuant to Federal Rule of Civil Procedure 4(c)(3). *See* Fed. R. Civ. P. 4(c)(3); *Navarette*
27 *v. Pioneer Med. Ctr.*, No. 12-cv-0629-WQH (DHB), 2013 WL 139925, at *1 (S.D. Cal.
28 Jan. 9, 2013).

1 All complaints must contain a “short and plain statement of the claim showing that
2 the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not
3 required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere
4 conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing
5 *Bell Atl. Corp. v. Twombly*, 550 U.S. 554, 555 (2007)). “[D]etermining whether a complaint
6 states a plausible claim is context-specific, requiring the reviewing court to draw on its
7 experience and common sense.” *Iqbal*, 556 U.S. at 663–64 (citing *Twombly*, 550 U.S. at
8 556).

9 “When there are well-pleaded factual allegations, a court should assume their
10 veracity, and then determine whether they plausibly give rise to an entitlement of relief.”
11 *Iqbal*, 556 U.S. at 679. “[W]hen determining whether a complaint states a claim, a court
12 must accept as true all allegations of material fact and must construe those facts in the light
13 most favorable to the plaintiff.” *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000); *see*
14 *also Andrews v. King*, 393 F.3d 1113, 1121 (9th Cir. 2005); *Barren v. Harrington*, 152
15 F.3d 1193, 1194 (9th Cir. 1998) (“The language of § 1915(e)(2)(B)(ii) parallels the
16 language of Federal Rule of Civil Procedure 12(b)(6).”).

17 “While factual allegations are accepted as true, legal conclusions are not.” *Hoagland*
18 *v. Astrue*, No. 1:12-cv-00973-SMS, 2012 WL 2521753, at *3 (E.D. Cal. June 28, 2012)
19 (citing *Iqbal*, 556 U.S. at 678). Courts cannot accept legal conclusions set forth in a
20 complaint if the plaintiff has not supported her contentions with facts. *Id.* (citing *Iqbal*, 556
21 U.S. at 679).

22 In social security appeals, a complaint challenging the denial of benefits “must
23 provide a statement identifying the basis of the plaintiff’s disagreement with the Social
24 Security Administration’s determination and must make a showing that the plaintiff is
25 entitled to relief.” *Montoya v. Colvin*, No. 2:16-cv-00454-RFB-NJK, 2016 WL 890922, at
26 *2 (D. Nev. Mar. 8, 2016) (collecting cases) (finding that the plaintiff failed to state a claim
27 for relief where the complaint merely alleged that the Commissioner’s decision to deny
28 benefits was wrong without explaining why, and instead simply recited the general

1 standards governing review of that decision).¹ “The purpose of the complaint is to briefly
2 and plainly allege facts supporting the legal conclusion that the Commissioner’s decision
3 was wrong.” *Hoagland*, 2012 WL 2521753, at *3 (citing *Brown v. Astrue*, No. 11-cv-056-
4 JL, 2011 WL 3664429, at *3 (D.N.H. Aug. 19, 2011)).

5 In the present case, Plaintiff appeals the Commissioner’s decision denying Plaintiff’s
6 claim for disability benefits. (Compl. at 1.) However, Plaintiff states only generalized legal
7 conclusions unsupported by any facts whatsoever indicating, for instance, why Plaintiff
8 contends the ALJ’s decision was erroneous, why Plaintiff was “disabled as that term is
9 defined in the Social Security Act[.]” or what “[n]ew and material evidence for which good
10 cause exists for failure to submit earlier exists [that] warrants a remand of this matter for
11 further proceedings.” (*See id.* at 1–3.)

12 As set forth above, this statement is insufficient to survive the *sua sponte* screening
13 required by 28 U.S.C. § 1915(e)(2). Accordingly, the Court **DISMISSES WITHOUT**
14 **PREJUDICE** Plaintiff’s complaint.

15 CONCLUSION

16 For the reasons stated above, the Court:

17 1. **GRANTS** Plaintiff’s Motion to Proceed IFP pursuant to § 1915(a), (ECF No. 2),
18 and;

19 2. **DISMISSES WITHOUT PREJUDICE** Plaintiff’s Complaint. Plaintiff **MAY**
20 **FILE** an amended complaint within thirty days of the date on which this Order is

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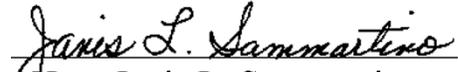
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25 ¹ The *Montoya* court listed the requirements for social security appeal complaints: (1) Plaintiff must
26 establish that he has exhausted his administrative remedies pursuant to 42 U.S.C. § 405(g) and that the
27 civil action commenced within 60 days after notice of final decision; (2) the complaint must list the judicial
28 district in which the Plaintiff resides; (3) the complaint must state how Plaintiff is disabled and when
Plaintiff became disabled; and (4) the complaint must contain a short and plain statement that identifies
why the Plaintiff disagrees with the Commissioner’s determination and show that the Plaintiff is entitled
to relief. 2016 WL 890922, at *2.

1 electronically docketed. *Should Plaintiff fail to file an amended complaint within the time*
2 *provided, the Court will enter a final order dismissing this civil action with prejudice.*

3 **IT IS SO ORDERED.**

4 Dated: April 4, 2017

5 
6 Hon. Janis L. Sammartino
7 United States District Judge

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