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7 **UNITED STATES DISTRICT COURT**  
8 **SOUTHERN DISTRICT OF CALIFORNIA**

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10 JONATHON C. SMITH-COUSINS,

11 Plaintiff,

12 v.

13 CRAMBINE LUCCIL,

14 Defendant.

Case No.: 17cv0848-MMA (JLB)

**ORDER DENYING MOTION TO  
PROCEED *IN FORMA PAUPERIS*;**

[Doc. No. 2]

**DENYING MOTION TO APPOINT  
COUNSEL**

[Doc. No. 3]

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16  
17 On April 26, 2017, Plaintiff Jonathon C. Smith-Cousins filed this action, and  
18 simultaneously filed a motion to proceed *in forma pauperis* (“IFP”) and a motion for  
19 appointment of counsel. *See* Doc. Nos. 1, 2, 3.

20 **DISCUSSION**

21 All parties instituting any civil action, suit or proceeding in a district court of the  
22 United States, except an application for writ of habeas corpus, must pay a filing fee of  
23 \$400. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff’s failure to  
24 prepay the entire fee only if he is granted leave to proceed IFP pursuant to 28 U.S.C. §  
25 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). “To proceed *in*  
26 *forma pauperis* is a privilege not a right.” *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir.  
27 1965). A party need not be completely destitute to proceed *in forma pauperis*. *Adkins v.*  
28 *E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339–40 (1948). But “the same even-

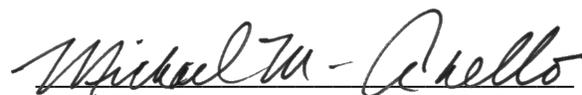
1 handed care must be employed to assure that federal funds are not squandered to  
2 underwrite, at public expense, either frivolous claims or the remonstrances of a suitor  
3 who is financially able, in whole or in material part, to pull his own oar.” *Temple v.*  
4 *Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984).

5 Plaintiff does not provide sufficient information for the Court to determine whether  
6 he should be granted IFP status. For example, Plaintiff provides contradictory responses  
7 regarding his monthly income, stating both that he has no monthly income and also that  
8 he receives \$984.00 in monthly disability payments. Similarly, Plaintiff indicates that he  
9 pays \$75.00 per month for motor vehicle insurance, but lists his monthly expenses as  
10 \$0.00. Further, Plaintiff does not provide the value of the car that he lists as an asset, nor  
11 does he respond to Question 12 by identifying the city and state where he resides.  
12 Plaintiff must answer every question listed on the IFP application form.

13 Based on the foregoing, the Court concludes it lacks sufficient information to  
14 determine whether or not it is outside of Plaintiff’s means to pay the costs of  
15 commencing this action. Accordingly, the Court **DENIES** without prejudice Plaintiff’s  
16 motion to proceed IFP. Doc. No. 2; *see* Civ. L.R. 3.2. Within **fourteen days** of the date  
17 of this Order, Plaintiff shall either: (a) pay the requisite \$400 filing fee, or (b) file a  
18 renewed motion for IFP containing the requisite information regarding his ability to pay  
19 the costs of commencing this action. If Plaintiff fails to timely submit payment or a  
20 renewed motion for IFP, this case must be dismissed. Lastly, the Court **DENIES**  
21 Plaintiff’s motion for appointment of counsel without prejudice to Plaintiff refiling his  
22 motion. *See* Doc. No. 3.

23 **IT IS SO ORDERED.**

24  
25 Date: May 2, 2017



26 Hon. Michael M. Anello  
27 United States District Judge  
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