

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

TAM PHAN NGUYEN, <div style="text-align: right;">Plaintiff,</div> v. NANCY BERRYHILL, Acting Commissioner of Social Security, <div style="text-align: right;">Defendant.</div>	
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Case No.: 17cv1406-MMA (NLS)

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

[Doc. No. 2]

On July 12, 2017, Plaintiff Tam Phan Nguyen filed this social security appeal pursuant to Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), challenging the denial of his application for disability benefits. Doc. No. 1. Plaintiff simultaneously filed a motion to proceed *in forma pauperis* (“IFP”). Doc. No. 2. For the reasons set forth below, the Court **DENIES** without prejudice Plaintiff’s motion to proceed IFP.

DISCUSSION

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 IFP pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). “To proceed *in forma pauperis* is a privilege not a right.” *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965). A party need not be completely destitute to proceed *in forma pauperis*. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339–40 (1948). But “the same even-handed care must be employed to assure that federal funds are not squandered to

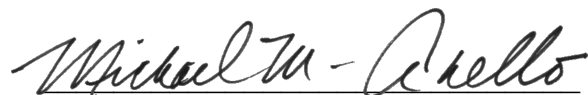
1 underwrite, at public expense, either frivolous claims or the remonstrances of a suitor
2 who is financially able, in whole or in material part, to pull his own oar.” *Temple v.*
3 *Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984).

4 Plaintiff does not provide sufficient information for the Court to determine whether
5 he should be granted IFP status. On Plaintiff’s application, Plaintiff does not adequately
6 respond to question 2, part b, which requests that he list “the date of [his] last
7 employment, the amount of [his] take-home salary or wages and pay period and the name
8 and address of [his] last employer.” See Doc. No. 2. Instead, Plaintiff only writes “about
9 2010 or 2011, not sure.” See Doc. No. 2. Also, Plaintiff does not respond fully to
10 question 3, which requires that applicants respond either “yes” or “no” to every subpart.
11 Further, Plaintiff submitted an outdated version of the IFP application form. If Plaintiff
12 wishes to file a renewed motion to proceed IFP, Plaintiff must use the updated form,
13 which he may access on the Court’s website on its “Forms” page¹ or by visiting the Clerk
14 of Court’s office in person.² Plaintiff must answer every question.

15 Accordingly, the Court **DENIES** without prejudice Plaintiff’s motion to proceed
16 IFP. Doc. No. 2; see Civ. L.R. 3.2. Within **fourteen days** of the date of this Order,
17 Plaintiff shall either: (a) pay the requisite \$400 filing fee, or (b) file a renewed motion for
18 IFP containing the requisite information regarding his ability to pay the costs of
19 commencing this action. If Plaintiffs fail to timely submit payment or a renewed motion
20 for IFP, this case shall be dismissed.

21 **IT IS SO ORDERED.**

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23 Date: July 14, 2017



24 Hon. Michael M. Anello
25 United States District Judge

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27 ¹[https://www.casd.uscourts.gov/Attorneys/Lists/Forms/Attachments/59/AO239_Application%20to%20P
28 roceed%20Without%20Prepayment.pdf](https://www.casd.uscourts.gov/Attorneys/Lists/Forms/Attachments/59/AO239_Application%20to%20Proceed%20Without%20Prepayment.pdf)

²The Clerk’s Office is located at 333 West Broadway, Suite 420, San Diego, California, 92101.