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

SHELLEY E. STONE,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security
Administration,

Defendant.

Case No.: 17-CV-1689 W (KSC)

**ORDER DENYING MOTION TO
PROCEED IFP [DOC. 2] AND
DISMISSING COMPLAINT**

On August 22, 2017, Plaintiff Shelley E. Stone filed a complaint seeking review of the denial of her claim for disability insurance benefits under the Social Security Act. Along with the complaint, Plaintiff filed a motion to proceed in forma pauperis (“IFP”).

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1 **I. INTRODUCTION**

2 The determination of indigency falls within the district court’s discretion.
3 California Men’s Colony v. Rowland, 939 F.2d 854, 858 (9th Cir. 1991), *reversed on*
4 *other grounds*, 506 U.S. 194 (1993) (“Section 1915 typically requires the reviewing court
5 to exercise its sound discretion in determining whether the affiant has satisfied the
6 statute’s requirement of indigency.”).

7 It is well-settled that a party need not be completely destitute to proceed in forma
8 pauperis. Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339-40 (1948). To
9 satisfy the requirements of 28 U.S.C. § 1915(a), “an affidavit [of poverty] is sufficient
10 which states that one cannot because of his poverty pay or give security for costs ... and
11 still be able to provide himself and dependents with the necessities of life.” *Id.* at 339.
12 At the same time, however, “the same even-handed care must be employed to assure that
13 federal funds are not squandered to underwrite, at public expense, ... the remonstrances of
14 a suitor who is financially able, in whole or in material part, to pull his own oar.” Temple
15 v. Ellerthorpe, 586 F.Supp. 848, 850 (D.R.I. 1984).

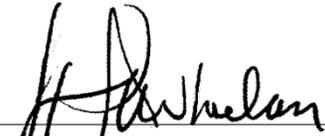
16 District courts, therefore, tend to reject IFP applications where the applicant can
17 pay the filing fee with acceptable sacrifice to other expenses. *See, e.g.,* Stehouwer v.
18 Hennessey, 851 F.Supp. 316, (N.D.Cal. 1994), *vacated in part on other grounds*,
19 Olivares v. Marshall, 59 F.3d 109 (9th Cir. 1995) (finding that district court did not
20 abuse discretion in requiring partial fee payment from prisoner with \$14.61 monthly
21 salary and \$110 per month from family); Allen v. Kelly, 1995 WL 396860 at *2 (N.D.
22 Cal. 1995) (Plaintiff initially permitted to proceed in forma pauperis, later required to pay
23 \$120 filing fee out of \$900 settlement proceeds); Ali v. Cuyler, 547 F.Supp. 129, 130
24 (E.D. Pa. 1982) (in forma pauperis application denied: “plaintiff possessed savings of
25 \$450 and the magistrate correctly determined that this amount was more than sufficient to
26 allow the plaintiff to pay the filing fee in this action.”). Moreover, the facts as to the
27 affiant’s poverty must be stated “with some particularity, definiteness, and certainty.”
United States v. McQuade, 647 F.2d 938, 940 (9th Cir. 1981).

1 Having read and considered the papers submitted, the Court finds that based on the
2 current record, Plaintiff does not meet the requirements for IFP status under 28 U.S.C. §
3 1915. According to her declaration, Plaintiff receives \$1168 in social security benefits,
4 and \$190 in food stamps, which is just enough to meet her monthly expenses totaling
5 \$1360. (*Motion* [Doc. 2] ¶¶ 1, 8.) However, Plaintiff also has a \$25,000 IRA. (*Id.* ¶ 4.)
6 In light of the IRA, Plaintiff does not meet the requirements for IFP status.

7 For the foregoing reasons, the Court **DENIES** Plaintiff's motion to proceed IFP
8 [Doc. 2] and **DISMISSES** the Complaint. Plaintiff shall have until **September 6, 2017**
9 to reinstate this case by paying the filing fee.

10 **IT IS SO ORDERED.**

11 Dated: August 23, 2017

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14 Hon. Thomas J. Whelan
15 United States District Judge
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