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6 UNITED STATES DISTRICT COURT
7 SOUTHERN DISTRICT OF CALIFORNIA
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9 RICKY EARL NORRIS,

10 Plaintiff,

11 v.

12 NANCY A. BERRYHILL, Acting
13 Commissioner of Social Security
14 Administration,

15 Defendant.

Case No.: 18-CV-0469 W (KSC)

**ORDER GRANTING MOTION TO
PROCEED IFP [DOC. 2] AND
REFERRING TO MAGISTRATE FOR
REPORT & RECOMMENDATION**

16 On March 5, 2018, Plaintiff Ricky Earl Norris (“Plaintiff”) filed a complaint seeking
17 review of the denial of his claim for disability insurance benefits under the Social Security
18 Act. Along with the complaint, Plaintiff filed a motion to proceed in forma pauperis
19 (“IFP”) [Doc. 2].
20

21 **I. DISCUSSION**

22 The determination of indigency falls within the district court’s discretion.
23 California Men’s Colony v. Rowland, 939 F.2d 854, 858 (9th Cir. 1991), *reversed on other*
24 *grounds*, 506 U.S. 194 (1993) (“Section 1915 typically requires the reviewing court to
25 exercise its sound discretion in determining whether the affiant has satisfied the statute’s
26 requirement of indigency.”).
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1 It is well-settled that a party need not be completely destitute to proceed in forma
2 pauperis. Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339-40 (1948). To
3 satisfy the requirements of 28 U.S.C. § 1915(a), “an affidavit [of poverty] is sufficient which
4 states that one cannot because of his poverty pay or give security for costs ... and still be
5 able to provide himself and dependents with the necessities of life.” *Id.* at 339. At the
6 same time, however, “the same even-handed care must be employed to assure that federal
7 funds are not squandered to underwrite, at public expense, ... the remonstrances of a suitor
8 who is financially able, in whole or in material part, to pull his own oar.” Temple v.
9 Ellerthorpe, 586 F.Supp. 848, 850 (D.R.I. 1984).

10 District courts, therefore, tend to reject IFP applications where the applicant can pay
11 the filing fee with acceptable sacrifice to other expenses. See, e.g., Stehouwer v. Hennessey,
12 851 F.Supp. 316, (N.D.Cal. 1994), *vacated in part on other grounds*, Olivares v. Marshall, 59
13 F.3d 109 (9th Cir. 1995) (finding that district court did not abuse discretion in requiring
14 partial fee payment from prisoner with \$14.61 monthly salary and \$110 per month from
15 family); Allen v. Kelly, 1995 WL 396860 at *2 (N.D. Cal. 1995) (Plaintiff initially
16 permitted to proceed in forma pauperis, later required to pay \$120 filing fee out of \$900
17 settlement proceeds); Ali v. Cuyler, 547 F.Supp. 129, 130 (E.D. Pa. 1982) (in forma
18 pauperis application denied: “plaintiff possessed savings of \$450 and the magistrate
19 correctly determined that this amount was more than sufficient to allow the plaintiff to pay
20 the filing fee in this action.”). Moreover, the facts as to the affiant’s poverty must be stated
21 “with some particularity, definiteness, and certainty.” United States v. McQuade, 647 F.2d
22 938, 940 (9th Cir. 1981).

23 Having read and considered the papers submitted, the Court finds that based on the
24 current record, Plaintiff meets the requirements for IFP status under 28 U.S.C. § 1915.
25 According to his declaration, Plaintiff receives \$192 in food stamps. (*IFP App.* [Doc. 2] ¶
26 1.) Although he has \$800 in cash, he has no other income, and states he is being
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1 supported by his girlfriend. (*Id.* ¶¶ 1, 4, 12.) Plaintiff's only asset is his car, which he
2 estimates is worth \$3,000. (*Id.* ¶ 5.) Based on these facts, Plaintiff's IFP motion will be
3 granted.

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5 **II. CONCLUSION & ORDER**

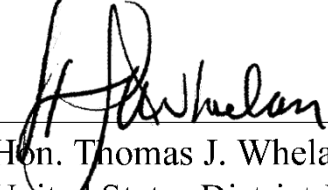
6 For the reasons addressed above, the Court **GRANTS** Plaintiff's motion to proceed
7 IFP [Doc. 2].

8 Additionally, the Court hereby **REFERS** all matters arising in this case to United
9 States Magistrate Judge Karen S. Crawford for a Report & Recommendation in accordance
10 with 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.1(c)(1)(c).

11 If the parties seek to file motions, they shall contact the chambers of Judge Crawford
12 to secure scheduling, filing, and hearing dates. All motion(s) for summary judgment must
13 be filed and served no later than 120 days after the Government files its answer.

14 **IT IS SO ORDERED.**

15 Dated: March 14, 2018

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18 Hon. Thomas J. Whelan
United States District Judge