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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL JAMES BARRETT,
Plaintiff,
v.
ANDREW SAUL, Commissioner of
Social Security,
Defendant.

Case No.: 20cv1713-LL

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

[ECF No. 3]

On September 1, 2020, Plaintiff filed a motion for leave to proceed *in forma pauperis*. ECF No. 3. In this action, Plaintiff is seeking review and reversal of the final decision of the Commissioner of Social Security (“Commissioner”) that denied Plaintiff’s claim for disability benefits. ECF No. 1. For the reasons set forth below, Plaintiff’s motion is **GRANTED**.

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 or she is granted leave to proceed *in forma pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915(a). See Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999). A federal court may authorize the commencement of an action without the

1 prepayment of fees if the party submits an affidavit, including a statement of assets,
2 showing that he or she is unable to pay the required filing fee. 28 U.S.C. § 1915(a).

3 The determination of indigency falls within the district court’s discretion. California
4 Men's Colony, Unit II Men's Advisory Council v. Rowland, 939 F.2d 854, 858
5 (9th Cir. 1991), rev'd on other grounds, Rowland v. California Men's Colony, Unit II Men's
6 Advisory Council, 506 U.S. 194 (1993) (“Section 1915 typically requires the reviewing
7 court to exercise its sound discretion in determining whether the affiant has satisfied the
8 statute's requirement of indigency.”). It is well-settled that a party need not be completely
9 destitute to proceed IFP. Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339
10 (1948). “An affidavit in support of an IFP application is sufficient where it alleges that the
11 affiant cannot pay the court costs and still afford the necessities of life.” Escobedo v.
12 Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015) (citing Adkins, 335 U.S. at 339). However,
13 “the same even-handed care must be employed to assure that federal funds are not
14 squandered to underwrite, at public expense, either frivolous claims or the remonstrances
15 of a suitor who is financially able, in whole or in material part, to pull his own oar.”
16 Temple v. Ellerthorpe, 586 F. Supp. 848, 850 (D.R.I. 1984). Finally, the facts as to the
17 litigant’s indigency must be stated “with some particularity, definiteness and certainty.”
18 United States v. McQuade, 647 F.2d 938, 940 (9th Cir. 1981) (citation omitted).

19 Here, Plaintiff’s application shows that his and his spouse’s monthly expenses
20 exceed their combined income by about \$900. The Court finds the expenses to be
21 reasonable. The amount in savings and checking for Plaintiff and his spouse is modest and
22 a little more than one month’s income. Therefore, the Court finds that Plaintiff has
23 submitted an affidavit that sufficiently shows he lacks the financial resources to pay filing
24 fees. Accordingly, the Court **GRANTS** Plaintiff’s motion to proceed *in forma*

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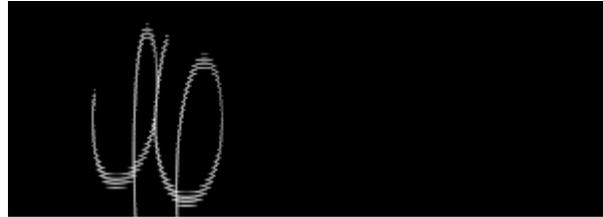
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1 *pauperis*. The Court has also reviewed Plaintiff’s complaint, and concludes it is not subject
2 to *sua sponte* dismissal under 28 U.S.C. § 1915(e)(2)(B).¹

3 **IT IS SO ORDERED.**

4 Dated: September 14, 2020

A black rectangular box containing a white, handwritten signature, likely of a judge, positioned to the right of the date.

23
24 ¹ The Court must screen every civil action brought pursuant to 28 U.S.C. § 1915(a) and
25 dismiss any case it finds “frivolous or malicious,” “fails to state a claim on which relief
26 may be granted,” or “seeks monetary relief against a defendant who is immune from such
27 relief.” 28 U.S.C. § 1915(e)(2); see also Calhoun v. Stahl, 254 F.3d 845, 845
28 (9th Cir. 2001) (“[T]he provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to
prisoners.”); Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc) (noting that
“section 1915(e) not only permits but requires a district court to dismiss an in forma
pauperis complaint that fails to state a claim”).