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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JANET A. ,  
  
Plaintiff,  
  
v.  
  
ANDREW M. SAUL, Commissioner of  
Social Security,  
  
Defendant.

Case No.: 21-cv-00227-DEB

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

**[DKT. NO. 2]**

Before the Court is Plaintiff Janet A.’s Application to Proceed *in forma pauperis*.  
Dkt. No. 2. For the reasons set forth below, the Court **DENIES** the Application.

All parties instituting a civil action, suit, or proceeding in a district court of the  
United States, except an application for writ of habeas corpus, must pay a \$400 filing fee.  
*See* 28 U.S.C. § 1914(a). The Court may authorize the commencement of a suit without  
prepayment of fees if the plaintiff submits an affidavit, including a statement of assets,  
showing he or she is unable to pay the filing fee. *See* 28 U.S.C. § 1915(a). The affidavit  
must “state the facts as to [the] affiant’s poverty with some particularity, definiteness and  
certainty.” *United States v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981) (internal  
quotations omitted). 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). An affidavit is

1 sufficient if it shows the applicant cannot pay the fee “and still be able to provide himself  
2 [or herself] and dependents with the necessities of life.” *Id.* (internal quotations omitted).

3 Here, Plaintiff’s Application states that she and her spouse receive a combined  
4 monthly income of \$4,325 from real property, gifts, retirement, and self-employment.  
5 Dkt. No. 2 at 1–2. Plaintiff reports that she is unemployed. *Id.* at 2. Plaintiff claims her and  
6 her spouse’s monthly expenses exceed their income by \$2,250. Dkt. No. 2 at 5 (stating  
7 combined monthly expenses are \$6,575 including rent or home-mortgage payment, health  
8 insurance, utilities, food, recreation, credit card payments, and \$3,500 in “Business  
9 payroll”).<sup>1</sup> However, Plaintiff lists significant assets, with a combined value of \$857,500.  
10 She also reports a checking/savings account with a balance of \$10,000 and a business  
11 checking account with an additional balance of \$10,000. *Id.* at 2. Plaintiff also states she  
12 and her husband have \$800 in cash at hand. *Id.*

13 Based on the foregoing, the Court **DENIES** Plaintiff’s Application to proceed *in*  
14 *forma pauperis*. See *Boudreaux v. Saul*, No. 20-cv-274-BGS, 2020 U.S. Dist. LEXIS  
15 64283, at \*2 (S.D. Cal. Apr. 10, 2020) (“Although the application reflects Plaintiff is  
16 spending more than he is receiving in income monthly, the Court would be hard pressed to  
17 find someone receiving more than \$5,000 a month in income should be allowed to proceed  
18 at public expense.”).

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26 <sup>1</sup> Plaintiff’s Application appears to be incomplete. On the Application, Plaintiff listed  
27 \$1,235 as her spouse’s “Regular expenses for operation of business, profession, or farm.”  
28 Dkt. No. 2 at 5. Although the form directs Plaintiff to “attach detailed statement,” Plaintiff  
provided no additional information on this answer. *Id.*

1 Plaintiff must pay the requisite filing fee on or before **April 7, 2021**, or her case may  
2 be dismissed.

3 **IT IS SO ORDERED.**

4 Dated: February 18, 2021



5  
6 Honorable Daniel E. Butcher  
7 United States Magistrate Judge  
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