

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA

3 Richard C.,

4 Plaintiff,

5 v.

6 Andrew M. SAUL,

7 Defendant.

Case No.: 21-cv-802-AGS

**ORDER GRANTING PLAINTIFF'S  
IN FORMA PAUPERIS STATUS  
(ECF 2)**

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9 Plaintiff moves to proceed in forma pauperis (IFP). Plaintiff qualifies to proceed  
10 without paying the initial filing fee, and his complaint states a claim for relief. So, the Court  
11 grants plaintiff's motion.

12 **Motion to Proceed In Forma Pauperis**

13 Typically, parties instituting a civil action in a United States district court must pay  
14 a filing fee of \$402.<sup>1</sup> See 28 U.S.C. § 1914(a). But if granted the right to proceed in forma  
15 pauperis, a plaintiff can proceed without paying the fee. *Rodriguez v. Cook*, 169 F.3d 1176,  
16 1177 (9th Cir. 1999).

17 Here, plaintiff owns no assets and receives \$200 in food stamps and \$676 in  
18 unemployment each month, for a total of \$876. (ECF 2, at 2-3.) Plaintiff's household  
19 expenses are \$1,563.99. (*Id.* at 4-5.) Because his unemployment does not cover his  
20 expenses, plaintiff's "mother helps [him] with the things [he] can not pay." (*Id.* at 3.) The  
21 Court finds that plaintiff has sufficiently shown an inability to pay the initial \$402 fee.

22 **28 U.S.C. § 1915(e) Screening**

23 When reviewing an IFP motion, the court must screen the complaint and dismiss it  
24 if it is frivolous, malicious, fails to state a claim, or seeks monetary relief from a defendant  
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27 <sup>1</sup> In addition to the \$350 statutory fee, civil litigants must pay an administrative fee of \$52.  
28 See 28 U.S.C. § 1914(a); District Court Misc. Fee Schedule, § 14 (effective Dec. 1, 2020).

1 immune from such relief. 28 U.S.C. § 1915(e)(2)(B); *Lopez v. Smith*, 203 F.3d 1122, 1127  
2 (9th Cir. 2000). In the Social Security context, a plaintiff’s complaint must set forth  
3 sufficient facts to support the legal conclusion that the Commissioner’s decision was  
4 incorrect. “[T]o survive the Court’s § 1915(e) screening,” a plaintiff must (1) “establish  
5 that she has exhausted her administrative remedies pursuant to 42 U.S.C. § 405(g), and that  
6 the civil action was commenced within sixty days after notice of a final decision,” (2)  
7 “indicate the judicial district in which the plaintiff resides,” (3) “state the nature of  
8 plaintiff’s disability and when the plaintiff claims she became disabled,” and (4) “identify[]  
9 the nature of the plaintiff’s disagreement with the determination made by the Social  
10 Security Administration and show that plaintiff is entitled to relief.” *Varao v. Berryhill*,  
11 No. 17-cv-02463-LAB-JLB, 2018 WL 4373697, at \*2 (S.D. Cal. Jan. 31, 2018) (alteration  
12 and citation omitted).

13 Plaintiff meets all four elements to survive a § 1915(e) screening. First, plaintiff  
14 “exhausted all administrative remedies by seeking review with the Appeals Council,”  
15 which denied his request on March 3, 2021. (ECF 1, at 4.) At that time, the ALJ’s decision  
16 became the Commissioner’s final decision. *See Sims v. Apfel*, 530 U.S. 103, 107 (2000).  
17 Next, plaintiff claims to reside in Santee, CA “within the jurisdictional boundaries of this  
18 Court.” (*Id.* at 1.) The complaint also states the nature of plaintiff’s disability:  
19 “degenerative disc disease of the thoracic and lumbar spine; arthritis of the left knee; major  
20 depressive disorder; and post traumatic stress disorder (PTSD),” which “rendered him  
21 disabled since August 15, 2015.” (*Id.* at 3.) Finally, plaintiff identifies the nature of his  
22 disagreement with the Social Security Administration’s determination, arguing that the  
23 ALJ “improperly identified . . . occupations . . . which require abilities” that run contrary  
24 to plaintiff’s residual functional capacity. (*Id.* at 4.) Plaintiff also claims that the ALJ  
25 “improperly reject[ed plaintiff’s] testimony regarding pain, symptom, and limitation.” (*Id.*)  
26 Based on these allegations, plaintiff’s complaint is sufficient to survive the “low threshold”  
27 for proceeding past the § 1915(e) screening. *Wilhelm v. Rotman*, 680 F.3d 1113, 1123  
28 (9th Cir. 2012).

1 **Conclusion**

2 For the reasons set forth above, the Court grants plaintiff's IFP motion.

3 Dated: April 27, 2021

4   
5 Hon. Andrew G. Schopler  
6 United States Magistrate Judge

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