

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 THERESA Y.,

4 Plaintiff,

5 v.

6 Andrew M. SAUL,

7 Defendant.

Case No.: 21-cv-0814-AGS

**ORDER GRANTING PLAINTIFF'S
IN FORMA PAUPERIS STATUS
(ECF 3)**

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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 her complaint states a claim for relief. So, the
11 Court 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 \$402.¹ 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 has no cash on hand. She receives \$400-\$500 in
18 food stamps and \$1,200 in unemployment each month, for a total of \$1,600-\$1,700. (ECF
19 3, at 2-3.) Plaintiff's normal household expenses are \$1,440. (*Id.* at 4-5.) The Court finds
20 that plaintiff has sufficiently shown an inability to pay the initial \$402 fee. See *Blount v.*
21 *Saul*, No. 21-CV-0679-BLM, 2021 WL 1561453, at *1 (S.D. Cal. Apr. 21, 2021) ("It is
22 well-settled that a party need not be completely destitute to proceed IFP.").

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27 ¹ In addition to the \$350 statutory fee, civil litigants must pay an administrative fee
28 of \$52. See 28 U.S.C. § 1914(a); District Court Misc. Fee Schedule, § 14 (effective Dec. 1,
2020).

1 **28 U.S.C. § 1915(e) Screening**

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

16 Plaintiff meets all four elements to survive a § 1915(e) screening. First, plaintiff
17 “exhausted all administrative remedies by seeking review with the Appeals Council,”
18 which denied her request on “March 22, 2021.” (ECF 1, at 3.) Next, plaintiff claims to
19 reside in Escondido, California “within the jurisdictional boundaries of this Court.” (*Id.* at
20 1.) The complaint also states the nature of plaintiff’s disability: “bilateral carpal tunnel
21 syndrome; ulnar nerve dysfunction; and obesity” which rendered her disabled since “May
22 30, 2016.” (*Id.* at 2.) Finally, plaintiff identifies the nature of her disagreement with the
23 Social Security Administration’s determination, arguing that the ALJ “did not state clear
24 and convincing reasons for rejecting [her] symptom and limitation testimony” and “did not
25 properly weigh the medical evidence that [she] had more limitations.” (*Id.* at 3.) Based on
26 these allegations, plaintiff’s complaint is sufficient to survive the “low threshold” for
27 proceeding past the § 1915(e) screening. *Wilhelm v. Rotman*, 680 F.3d 1113, 1123 (9th Cir.
28 2012).

Conclusion

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

Dated: April 28, 2021



Hon. Andrew G. Schopler
United States Magistrate Judge

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