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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 ALBERT H.,

12 Plaintiff,

13 v.

14 MARTIN O'MALLEY, Commissioner of  
15 the Social Security Administration,

16 Defendant.

Case No.: 24cv0126-SBC

**ORDER GRANTING PLAINTIFF'S  
MOTION TO PROCEED IN FORMA  
PAUPERIS**

**[ECF No. 3]**

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18 On January 19, 2024, Albert H. ("Plaintiff") filed this Social Security appeal  
19 pursuant to Section 405(g) of the Social Security Act, 42 U.S.C. § 405(g), challenging the  
20 denial of his application for Supplemental Security Income (ECF No. 1.) Plaintiff  
21 simultaneously filed a motion to proceed *in forma pauperis* ("IFP"). (ECF No. 3.) For the  
22 reasons set forth below, Plaintiff's motion to proceed IFP is **GRANTED**.

23 All parties instituting any civil action, suit, or proceeding in a district court of the  
24 United States, except an application for writ of habeas corpus, must pay a filing fee of  
25 \$400. *See* 28 U.S.C. § 1914(a). An action may proceed despite plaintiff's failure to  
26 prepay the entire fee only if the plaintiff is granted leave to proceed IFP pursuant to 28  
27 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). "To  
28 proceed [IFP] is a privilege not a right." *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir.

1 1965). A party need not be completely destitute to proceed IFP. *Adkins v. E.I. DuPont de*  
2 *Nemours & Co.*, 335 U.S. 331, 339-40 (1948).

3 Here, Plaintiff submits an affidavit stating that he receives \$868.00 a month from  
4 social security, and \$291.00 in public-assistance, for a total of \$1159.00 in monthly  
5 income. (ECF No. 3 at 1-2.) Plaintiff claims a 2000 Jeep, but no other assets. (*Id.* at 3.)  
6 For monthly average expenses, Plaintiff claims rent/home-mortgage payment of \$300,  
7 food in the amount of \$400, utilities in the amount of \$100, and toiletries in the amount  
8 of \$100, for a total of \$900 in expenses each month. (*Id.* at 4-5.)

9 Plaintiff's affidavit sufficiently demonstrates an inability to pay the required filing  
10 fee without sacrificing the necessities of life. *See Adkins*, 335 U.S. at 339-40.  
11 Additionally, the Court has reviewed Plaintiff's complaint and concludes it is not subject  
12 to *sua sponte* dismissal under 28 U.S.C. § 1915(e)(2)(B). Accordingly, Plaintiff's motion  
13 to proceed IFP is **GRANTED**.

14 **IT IS SO ORDERED.**

15 Dated: February 6, 2024

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Hon. Steve B. Chu  
United States Magistrate Judge