

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

STEVEN R. GONZALEZ,

Plaintiff,

v.

CASE NO. 3:07-cv-24-J-32HTS

JOHN E. POTTER,
POSTMASTER GENERAL,

Defendant.

O R D E R

This cause is before the Court on the request to proceed *in forma pauperis* contained in the Affidavit of Indigency (Doc. #2; Petition), filed January 16, 2007. Upon review, it appears Plaintiff may have sufficient resources to pay the required filing fee.

Under 28 U.S.C. § 1915, courts may permit a litigant to proceed *in forma pauperis* if the litigant avers in an affidavit that he or she is unable to bear the fees and costs concomitant with a lawsuit. Plaintiff has filed a sworn affidavit that shows he and his wife have annual income exceeding \$65,000.00, with monthly obligations of approximately \$2514.00. See Petition at 2-4. As spousal income is relevant to the determination of indigency

under 28 U.S.C. § 1915, it seems Plaintiff should not be considered indigent. See, e.g., *Lee v. Wal-Mart Stores, Inc.*, No. 3:92-cv-465AS, 1993 WL 316756, at *3 (N.D. Ind. Aug. 18, 1993). In addition, he owns outright two cars worth a combined \$24,000.00 and has \$1000.00 to \$2000.00 in savings. Petition at 3.

Thus, the Court is contemplating entering a report and recommendation that will suggest Plaintiff's request to proceed *in forma pauperis* be denied. However, he will first be provided an opportunity to furnish any additional information or arguments bearing on the issue. Of course, in lieu thereof, he is also free to pay the required filing fee. Accordingly, Mr. Gonzalez has eleven (11) days from the date of this Order within which to respond, and the Petition (Doc. #2) will be taken under advisement pending receipt of Plaintiff's response.

DONE AND ORDERED at Jacksonville, Florida, this 19th day of January, 2007.

/s/ Howard T. Snyder
HOWARD T. SNYDER
UNITED STATES MAGISTRATE JUDGE

Copies to:

All counsel of record
and pro se parties, if any