

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

COUNTRYWIDE HOME LOANS, INC.,

Plaintiff,

v.

Case No. 8:10-CV-0412-T-30EAJ

STEPHANIE and JOSE ARAZO,

Defendants.

REPORT AND RECOMMENDATION

Before the court is Defendant Jose Arazo's **Application to Proceed in District Court Without Prepaying Fees or Costs** (Dkt. 3), which the court construes as a motion for leave to proceed in forma pauperis.

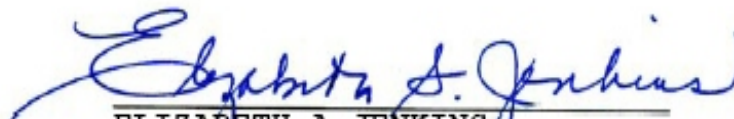
The in forma pauperis statute, 28 U.S.C. § 1915 (hereinafter "§ 1915"), permits the court to authorize the "commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor" by an indigent person. The statute "is designed to ensure that indigent litigants have meaningful access to the federal courts." Neitzke v. Williams, 490 U.S. 319, 324 (1989) (citation omitted). A trial court has wide discretion in determining whether to grant or deny a motion filed pursuant to § 1915. Martinez v. Kristi Kleaners, Inc., 364 F.3d 1305, 1306 (11th Cir. 2004) (per curiam) (citations omitted). When presented with a motion to proceed in forma pauperis, the court should first consider only "whether the statements in the affidavit satisfy the requirements of poverty," and the court should accept the statements in the affidavit as true absent a serious misrepresentation. Id. at 1307 (citations omitted). A litigant need not be "absolutely destitute" to qualify as indigent for purposes of § 1915. Id.

Defendant's affidavit reveals that he earns \$600 per week, has \$250 in checking/savings accounts, does not own a vehicle¹, and has no dependents. Defendant's monthly obligations include \$278 for utilities, cable, phone, and internet and \$172 for his wife's medical care. In light of Defendant's assets, income, and liabilities, Defendant's affidavit does not reveal the requisite inability to pay the cost of filing an action.

Accordingly and upon consideration, it is **RECOMMENDED** that:

- (1) Defendant's motion for leave to proceed in forma pauperis (Dkt. 3) be **DENIED**.

Date: February 23, 2010


ELIZABETH A JENKINS
United States Magistrate Judge

NOTICE TO PARTIES

Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen days from the date of its service shall bar an aggrieved party from attacking the factual findings on appeal. 28 U.S.C. § 636(b)(1).

Copies to:
Pro se Defendants
District Court Judge

¹ The application used by Defendant asked him to identify any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that he owned. In response, Defendant wrote "Do not own vehicle." Whether Defendant owns real estate is unclear from this statement and is further questionable given that Defendant apparently has no monthly housing obligation.