

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

Gustavo CARRERA-GARCIA

Plaintiff,

v.

JOHN F. KELLY, SECRETARY OF
THE DEPARTMENT OF HOMELAND
SECURITY (DHS); **THOMAS D.
HOMAN**, DIRECTOR OF U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE) AND ITS
OFFICE OF ENFORCEMENT AND
REMOVAL OPERATIONS (ERO);
LAURA MCNEER, ICE/ERO
DIRECTOR, SALT LAKE CITY FIELD
OFFICE; **KIERAN DONAHUE**,
SHERIFF OF CANYON COUNTY;
CANYON COUNTY

in their official capacities,

Defendants.

Case No. 1:17-cv-00225-DCN

MEMORANDUM DECISION AND
ORDER

The Court has before it Plaintiff Gustavo Carrera-Garcia's *in forma pauperis* request (dkt. 3) filed on May 30, 2017. For the reasons set forth below the court GRANTS the Motion.

In order to qualify for *in forma pauperis* ("IFP") status, a Plaintiff must submit an affidavit that includes a statement of all assets he possesses and that he is unable to pay the fee required.

The affidavit is sufficient if it states that the plaintiff, because of his poverty, cannot “pay or give security for the costs” and still be able to provide for himself and his dependents “with necessities of life.” *Adkins v. E.I. DuPont de Numours & Co.*, 335 U.S. 331, 339 (1948). The affidavit must “state the facts as to affiant's poverty with some particularity, definiteness and certainty.” *United States v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981) (internal quotation omitted).

Here, Carrera-Garcia has stated under penalty of perjury that he “cannot prepay the filing fee in [his] case” as required by 28 U.S.C. § 1915(a)(1). Dkt. 3, at 5. Carrera-Garcia’s application indicates that he has limited monthly income, virtually no money in the bank, and little to no assets. *Id.* at 2-4. Carrera-Garcia is the sole bread winner for himself, his spouse, and his two minor children. The Court finds that Carrera-Garcia’s application sufficiently establishes his indigence and inability to pay. Accordingly, the Petitioner may proceed without the prepayment of filing fees or costs.

ORDER

IT IS ORDERED:

1. Plaintiff’s Motion to Proceed *In Forma Pauperis* (Dkt. 3) is **GRANTED**.
2. Petitioner shall be allowed to proceed without the payment of the filing fee.



DATED: September 20, 2017


Honorable David C. Nye
United States District Court