

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

KENT MAYFIELD and
TONYA MAYFIELD,)
)
Plaintiffs,)
)
vs.)
)
HARVEY COUNTY SHERIFF'S)
DEPARTMENT, *et al.*,)
)
Defendant.)
_____)

Case No. 14-1307-JTM-KGG

**MEMORANDUM & ORDER ON
MOTION TO PROCEED WITHOUT PREPAYMENT OF FEES**

In conjunction with their federal court Complaint alleging violations of their Constitutional rights, Plaintiffs Kent Mayfield and Tonya Mayfield have filed a Motion to Proceed Without Prepayment of Fees (*IFP* Application, Doc. 3, sealed), with an accompanying Affidavit of Financial Status (Doc. 3-1, sealed). Having reviewed Plaintiffs' motion, as well as their Complaint (Doc. 1), the Court is prepared to rule.

I. Motion to Proceed *In Forma Pauperis*

Under 28 U.S.C. § 1915(a), a federal court may authorize commencement of an action without prepayment of fees, costs, etc., by a person who lacks financial means. 28 U.S.C. § 1915(a). In so doing, the court considers the affidavit of

financial status included with the application. *See id.*

There is a liberal policy toward permitting proceedings *in forma pauperis* when necessary to ensure that the courts are available to all citizens, not just those who can afford to pay. *See generally, Yellen v. Cooper*, 828 F.2d 1471 (10th Cir. 1987). In construing the application and affidavit, courts generally seek to compare an applicant's monthly expenses to monthly income. *See Patillo v. N. Am. Van Lines, Inc.*, No. 02-2162, 2002 WL 1162684, at *1 (D.Kan. Apr. 15, 2002); *Webb v. Cessna Aircraft*, No. 00-2229, 2000 WL 1025575, at *1 (D.Kan. July 17, 2000) (denying motion because "Plaintiff is employed, with monthly income exceeding her monthly expenses by approximately \$600.00").

In their supporting financial affidavit, Plaintiffs, who are a married couple, indicate they are 45 and 42 years old, respectively. (Doc. 3-1, at 1.) They list two minor children for whom they provide financial support. (*Id.*, at 2.) Neither of the Plaintiffs are employed, although Mr. Mayfield was previously employed as a night shift assembler, receiving a modest monthly wage. (*Id.*, at 3.) They list no government benefits other than "food assistance." (*Id.*, at 4-5.)

Plaintiffs own a modest piece of real property as well as two modest automobiles outright. (*Id.*, at 3-4.) They indicate a small amount of cash on hand. (*Id.*, at 4.) Plaintiffs pay a modest amount in monthly rent and enumerate

reasonable monthly expenses, including utilities, gas, and telephone. (*Id.*, at 5.) They have not filed for bankruptcy, but are in default on student loans. (*Id.*, at 5-6.)

Considering all of the information contained in the financial affidavit, Plaintiffs have reasonable monthly expenses and financial obligations with no monthly income and two minor dependents. The Court finds Plaintiffs have established that they are entitled to file this action without payment of fees and costs. The Court **GRANTS** Plaintiffs leave to proceed *in forma pauperis* and directs that this case be filed without payment of a filing fee.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Proceed Without Prepayment of Fees (Doc. 3, sealed) is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk's office shall proceed to issue summons in this case.

IT IS SO ORDERED.

Dated at Wichita, Kansas, on this 6th day of October, 2014.

S/ KENNETH G. GALE

KENNETH G. GALE

United States Magistrate Judge