

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

|                                    |   |                                 |
|------------------------------------|---|---------------------------------|
| <b>DJUAN PRESTION WILLIAMS,</b>    | ) |                                 |
|                                    | ) |                                 |
| <b>Plaintiff,</b>                  | ) |                                 |
|                                    | ) |                                 |
| <b>v.</b>                          | ) | <b>Case No. 20-1357-JWB-GEB</b> |
|                                    | ) |                                 |
| <b>MILLIGANS ENTERPRISES INC.,</b> | ) |                                 |
|                                    | ) |                                 |
| <b>Defendants.</b>                 | ) |                                 |
| _____                              | ) |                                 |

**ORDER**

This matter is before the Court on Plaintiff Djuan Preston Williams’ Motion to Proceed Without Prepayment of Fees (ECF No. 3, *sealed*) and supporting Affidavit of Financial Status (ECF No. 3-1 *sealed*). For the reasons outlined below, Plaintiff’s Motion (ECF No. 3) is **GRANTED**.

Under 28 U.S.C. § 1915(a), the Court has discretion<sup>1</sup> to authorize filing of a civil case “without prepayment of fees or security thereof, by a person who submits an affidavit that . . . the person is unable to pay such fees or give security thereof.” “Proceeding *in forma pauperis* in a civil case ‘is a privilege, not a right—fundamental or otherwise.’”<sup>2</sup> To determine whether a party is eligible to file without prepayment of the fee, the Court

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<sup>1</sup> *Barnett ex rel. Barnett v. Nw. Sch.*, No. 00-2499-KHV, 2000 WL 1909625, \*1 (D. Kan. Dec. 26, 2000) (citing *Cabrera v. Horgas*, No. 98-4231, 173 F.3d 863, \*1 (10th Cir. April 23, 1999)).

<sup>2</sup> *Id.* (quoting *White v. Colorado*, 157 F.3d 1226, 1233 (10th Cir. 1998)).

reviews the party's financial affidavit and compares his or her monthly expenses with the monthly income disclosed therein.<sup>3</sup>

Both the Tenth Circuit Court of Appeals and this Court has a liberal policy toward permitting proceedings *in forma pauperis*.<sup>4</sup> After careful review of Plaintiff's financial resources (ECF No. 3-1 *sealed*), and comparison of Plaintiff's listed monthly income and listed monthly expenses, the Court finds he is financially unable to pay the filing fee.

**IT IS THEREFORE ORDERED** that Plaintiff's Motion to Proceed Without Prepayment of Fees (**ECF No. 3**) is **GRANTED**.

**IT IS FURTHER ORDERED** Plaintiff's deadline for service of process is extended up to and including May 31, 2021. Service of process shall be undertaken by the clerk of court under 28 U.S.C. § 1915(d) and Fed. R. Civ. P. 4(c)(3.)

**IT IS SO ORDERED.**

Dated at Wichita, Kansas this 31st day of March 2021.

s/ Gwynne E. Birzer  
GWYNNE E. BIRZER  
United States Magistrate Judge

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<sup>3</sup> *Alexander v. Wichita Hous. Auth.*, No. 07-1149-JTM, 2007 WL 2316902, \*1 (D. Kan. Aug. 9, 2007) (citing *Patillo v. N. Am. Van Lines, Inc.*, No. 02-2162-JWL, 2000 WL 1162684, \*1) (D. Kan. April. 15, 2002) and *Webb v. Cessna Aircraft*, No. 00-2229-JWL, 2000 WL 1025575, \*1 (D. Kan. July 17, 2000)).

<sup>4</sup> *Mitchell v. Deseret Health Care Facility*, No. 13-1360-RDR, 2013 WL 5797609, \*1 (D. Kan. Sept. 30, 2013) (citing, generally, *Yellen v. Cooper*, 828 F.2d 1471 (10th Cir. 1987)).