

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

RAVEN OCTAVIA SUTTER,)
)
Plaintiff,)
)
v.) Case No. 22-1257-JWB-GEB
)
JAMES TYLER FINCHER,)
)
Defendant.)
)

ORDER

This matter is before the Court on Plaintiff Raven Octavia Sutter's Motion to Proceed Without Prepayment of Fees (ECF No. 2, *sealed*) and supporting Affidavit of Financial Status (ECF No. 2-1 *sealed*). For the reasons outlined below, Plaintiff's Motion (ECF No. 2) is **GRANTED**.

Pursuant to 28 U.S.C. § 1915(a), the Court has discretion¹ 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.'"² The Court reviews the party's financial affidavit and compares his or her monthly expenses

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

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

with the monthly income disclosed therein, to determine whether a party is eligible to file without prepayment of the fee,³

The Tenth Circuit Court of Appeals and this Court have a liberal policy toward permitting proceedings *in forma pauperis*.⁴ After careful review of Plaintiff's financial resources (ECF No. 2-1 *sealed*), and comparison of Plaintiff's listed monthly income and listed monthly expenses, the Court finds she is financially unable to pay the filing fee.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Proceed Without Prepayment of Fees (ECF No. 2) is **GRANTED**.

IT IS FURTHER ORDERED 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 18th day of November 2022.

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

³ *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)).

⁴ *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)).