

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ANGELA LEIGH CAVINESS,

Plaintiff,

v.

Case No. 13-15288

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER DENYING APPLICATION TO PROCEED
IN FORMA PAUPERIS ON APPEAL**

Before the court is Plaintiff Angela Caviness's application for leave to proceed *in forma pauperis* on her appeal of an attorney's fee award. (Dkt. # 23.) Federal Rule of Appellate Procedure 24(a)(1) provides that a party to a district court action who desires to appeal *in forma pauperis* must file a motion in the district court. This motion must include an affidavit that demonstrates "the party's inability to pay or to give security for fees and costs[.]" Fed. R. App. P. 24(a)(1)(A). The decision to grant or deny an application to proceed *in forma pauperis* lies within the sound discretion of the district court. *Swenson v. Pramstaller*, 169 F. App'x 449, 450 (6th Cir. 2006).

In her application, Plaintiff asserts that she is unemployed and "can barely keep up with monthly bills, college expenses, etc. Nearly all savings have been spent to cover living expenses." (Dkt. # 23, Pg. ID 1615.) Plaintiff has also attached to her application an enumerated list of monthly expenses. (*Id.* at 1616.)

Nevertheless, the court finds Plaintiff's claims unpersuasive in light of her spouse's rather substantial income and the nature of this action. Plaintiff's spouse,

according to her application, has an annual salary of approximately \$94,000. The court is of the opinion that a party with stable income of this size can likely afford the rather modest cost of filing an appeal with the Sixth Circuit. Moreover, this is an appeal of an attorney's fee *award*. As the court has already awarded an attorney's fee in this case, the attorney's interest has been served, and any further efforts to increase the award can be financed by Plaintiff or her counsel.

IT IS THEREFORE ORDERED that Plaintiff's "Application to Proceed Without Prepayment of Fees" (Dkt. # 23) is DENIED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 9, 2015

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 9, 2015, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522