

Not for Publication

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KIMBERLY ANTHONY,

Plaintiff,

v.

AASHNA CHOUDARY, et al.,

Defendants.

Civil Action No. 19-17074

OPINION & ORDER

John Michael Vazquez, U.S.D.J.

Plaintiff Kimberly Anthony brings the above-captioned action *in forma pauperis* pursuant to 28 U.S.C. § 1915, D.E. 1-1 (“IFP App.”). For the reasons discussed below, the Court denies Plaintiff’s application to proceed *in forma pauperis*.

Under Section 1915, this Court may excuse a litigant from prepayment of fees when the litigant “establish[es] that [s]he is unable to pay the costs of [her] suit.” *Walker v. People Express Airlines, Inc.*, 886 F.2d 598, 601 (3d Cir. 1989). Plaintiff has not sufficiently established her inability to pay for the costs of her suit, and therefore, the Court denies Plaintiff’s motion to proceed *in forma pauperis*.

Plaintiff’s average monthly income during the twelve months preceding her *in forma pauperis* application was \$2,920, while her spouse’s¹ monthly income was \$4,000. IFP App. ¶ 1. In addition, Plaintiff’s recent employment history indicates that she was employed from July 2016 to March 2018 with a monthly income of \$6,833, and thereafter, employed from March 2018 to

¹ Plaintiff indicates that her “spouse” for purposes of her *in forma pauperis application* is her fiancé.

December 2018 with a monthly income of \$8,333. *Id.* ¶ 2. Notably, Plaintiff's spouse also seems to be currently employed with a monthly income of \$7,500. *Id.* ¶ 3. As such, Plaintiff has not sufficiently established her inability to pay the \$400 initial filing fee, and therefore, the Court denies Plaintiff's motion to proceed *in forma pauperis*. The Court, however, grants Plaintiff an opportunity to amend her application with additional facts that demonstrate her inability to proceed without prepayment of fees or costs.

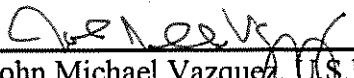
For the foregoing reasons, and for good cause shown,

IT IS on this 29 day of October, 2019,

ORDERED that Plaintiff's application to proceed *in forma pauperis* is **DENIED**; and it is further

ORDERED that Plaintiff may file an amended application to proceed *in forma pauperis* within thirty (30) days of receipt of this Opinion and Order, curing the deficiencies noted herein. If Plaintiff fails to file an amended application to proceed *in forma pauperis* within thirty (30) days of receipt, Plaintiff's application shall be dismissed with prejudice; and it is further

ORDERED that the Clerk of the Court shall serve this Opinion and Order upon Plaintiff by regular and certified mail return receipt.



John Michael Vazquez, U.S.D.J.