IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MARY E. GURULE,

Plaintiff,

v. Civ. No. 20-1045 KWR/GBW

ANDREW SAUL,
Commissioner of the
Social Security Administration,

Defendant.

ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS

This matter comes before the Court on Plaintiff's Motion for Leave to Proceed in Forma Pauperis. *Doc. 2*. For the reasons stated below, Plaintiff's Motion is GRANTED.

The statute for proceedings *in forma pauperis*, 28 U.S.C. § 1915(a), provides that the Court may authorize the commencement of any suit without prepayment of fees by a person who submits an affidavit that includes a statement of all assets the person possesses and that the person is unable to pay such fees.

> When a district court receives an application for leave to proceed in forma pauperis, it should examine the papers and determine if the requirements of [28 U.S.C.] § 1915(a) are satisfied. If they are, leave should be granted. Thereafter, if the court finds that the allegations of poverty are untrue or that the action is frivolous or malicious, it may dismiss the case[.]

Menefee v. Werholtz, 368 F. App'x 879, 884 (10th Cir. 2010) (unpublished) (citing *Ragan v. Cox*, 305 F.2d 58, 60 (10th Cir. 1962)). "[A]n application to proceed *in forma pauperis*

should be evaluated in light of the applicant's present financial status." *Scherer v. Kansas*, 263 F. App'x 667, 669 (10th Cir. 2008) (unpublished) (citing *Holmes v. Hardy*, 852 F.2d 151, 153 (5th Cir. 1988)). "The statute [allowing a litigant to proceed *in forma pauperis*] was intended for the benefit of those too poor to pay or give security for costs[.]" *Adkins v. E.I. DuPont De Nemours & Co.*, 335 U.S. 331, 344 (1948). While a litigant need not be "absolutely destitute," "an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs and still be able to provide himself and dependents with the necessities of life." *Id.* at 339.

The Court grants Plaintiff's Motion to proceed IFP. Plaintiff signed an affidavit in support of her application in which she declares that she is unable to pay the costs of these proceedings and declares under penalty of perjury that the information regarding her income is true. Because the total monthly income for Plaintiff and her spouse is $1660.00, because this income is insufficient to cover their monthly expenses, and because Plaintiff and her spouse are unemployed, the Court concludes that Plaintiff is unable to prepay the fees and costs of this proceeding. *See generally doc. 2*.

Therefore, Plaintiff's Motion for Leave to Proceed in Forma Pauperis (*doc. 2*) is GRANTED.

GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE