

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

DANIEL TORRES,

Plaintiff,

v.

**ROBERT HIDALGO,
in his individual capacity; and
UNITED STATES OF AMERICA,**

Defendants.

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CIVIL ACTION NO.

SA-11-CV-0494 XR

ORDER DENYING IN FORMA PAUPERIS

The matter before the court is plaintiff's application to proceed in forma pauperis, as supplemented (docket entries 1 and 3). Plaintiff requests pauper status in order to file a complaint under the Federal Tort Claims Act and the Fifth Amendment. Plaintiff claims that he suffered "light bruising and soreness" as a result of a September 24, 2008 assault and battery by defendant Robert Hidalgo, an IRS agent, during the course of a meeting with Hidalgo at a local IRS office. Torres is represented in this lawsuit by Texas RioGrande Legal Aid, Inc.

Plaintiff reports that he is self employed as a real estate agent. His take home pay is approximately \$1,800 and his monthly expenses for rent, utilities, food and transportation total \$1,740. He lists assets consisting of a home (valued at \$100,000), other real estate (valued at \$10,000), a 2010 Mustang (valued at \$6,000), and 2000 Ford Expedition (valued at \$3,500). He reports cash on hand as \$1,100. While plaintiff need not establish that he is totally destitute before he may be granted leave to proceed in forma pauperis, after examining his statements concerning

expenses, income, and assets I find this plaintiff has the resources to pay the \$350 filing fee to initiate this action, without being deprived of the necessities of life.¹

It is therefore **ORDERED** that:

1. Plaintiff's application for leave to proceed in forma pauperis is **DENIED**.
2. On or before 30 days from date of this Order, plaintiff shall pay the required filing fee in this cause.
3. In the event plaintiff wishes to appeal from my denial of the application for leave to proceed in forma pauperis, he must file his appeal to the District Court from this Order within 14 days of the date of this Order.
4. Plaintiff is advised that in the event that he fails to either pay the filing fee or file an appeal from this Order within the time frames set forth above, the District Court will issue an Order dismissing this cause without prejudice.

SIGNED on August 13, 2011.



NANCY STEIN NOWAK
UNITED STATES MAGISTRATE JUDGE

¹*Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).