

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

In re:  
JOHN MAYFIELD BRAZIER, III,  
Debtor.

CASE NO. C17-1526JLR

Bankruptcy Case No.  
17-10187CMA

ORDER DENYING MOTION TO  
PROCEED IN FORMA  
PAUPERIS

JOHN MAYFIELD BRAZIER, III,  
Appellant,  
v.  
RONALD G. BROWN,  
Appellee.

## I. INTRODUCTION

Before the court is Appellant John Mayfield Brazier, III's motion to proceed *in forma pauperis* ("IFP"). (IFP Mot. (Dkt. # 4).) The court has considered Mr. Brazier's

1 motion, the relevant portions of the record, and the applicable law. Being fully advised,<sup>1</sup>  
2 the court DENIES Mr. Brazier's IFP motion for the reasons set forth below.

3 **II. BACKGROUND & ANALYSIS**

4 On October 13, 2017, Mr. Brazier filed this bankruptcy appeal. (Letter (Dkt. # 2).)  
5 In this Chapter 7 bankruptcy action, Mr. Brazier appeals the Bankruptcy Court for the  
6 Western District of Washington's order directing the debtor to provide access to real  
7 property and to vacate residence. (Trans. of Docs. (Dkt. # 1) at 1, 9-13.) Shortly after  
8 filing the appeal, Mr. Brazier also moved to proceed IFP. (IFP Mot.) In the IFP motion,  
9 Mr. Brazier represents that his household has four members. (*Id.* at 1, 3 (listing himself,  
10 a spouse, and two children).) He further avers that his average monthly income during  
11 the past 12 months has been \$20,400.00 from employment and \$5,000.00 from  
12 self-employment and his spouse's average monthly income during the same period has  
13 been \$42,000.00. (*Id.* at 1.) Elsewhere in the motion, Mr. Brazier states that his gross  
14 monthly pay is \$8,700.00 and his spouse's gross monthly pay is \$42,000.00. (*Id.* at 2.)

15 “The court has the discretion under 28 U.S.C. § 1930(f)(1) to waive the filing fee  
16 for a Chapter 7 case where the debtor has income less than 150 percent of the income  
17 official poverty line applicable to the size of family involved.” *In re Bussey*,  
18 No. 14-32160, 2014 WL 2765703, at \*1 (Bankr. N.D. Ohio June 18, 2014); *see also* 28  
19 U.S.C. § 1930(f)(1) (“[T]he district court or the bankruptcy court may waive the filing  
20 fee in a case under [C]hapter 7 of [T]itle 11 for an individual if the court determines that

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<sup>1</sup> Mr. Brazier did not request oral argument, and the court determines oral argument is unnecessary to its disposition of the motion. *See* Local Rules W.D. Wash. LCR 7(b)(4).

1 such individual has income less than 150 percent of the income official poverty  
2 line . . . applicable to a family of the size involved and is unable to pay that fee in  
3 installments.”); *In re Young*, No. 16-60353, 2017 WL 660642, at \*1 (Bankr. W.D. Va.  
4 Feb. 14, 2017) (“The Bankruptcy Abuse Prevention and Consumer Protection Act of  
5 2005 (‘BAPCPA’) empowered bankruptcy courts to rule on applications to waive the fees  
6 for filing an appeal by a Chapter 7 debtor, whether or not the debtor qualified for waiver  
7 of the case filing fee.”). The debtor bears the burden of proving by a preponderance of  
8 the evidence that his or her circumstances satisfy the requirements of the fee waiver  
9 provision. *In re Bussey*, 2014 WL 2765703, at \*1. The federal poverty line for a family  
10 of four in 2017 is an annual household income of \$24,600.00. *See Annual Update of the*  
11 *HHS Poverty Guidelines* (hereinafter, “*Annual Update*”), 82 Fed. Reg. 8831-32 (Jan. 31,  
12 2017) (enumerating the 2017 poverty guidelines by household size).

13 Mr. Brazier does not qualify for waiver of the filing fee. (*See* IFP Mot.) Because  
14 of the inconsistencies regarding Mr. Brazier’s monthly income, the court assumes that  
15 Mr. Brazier’s monthly income is only \$8,700.00—the lower of the amounts he provides.  
16 (*Compare* IFP Mot. at 1, *with id.* at 2.) Based on this reported monthly income, Mr.  
17 Brazier’s annual income alone far surpasses 150% of the federal poverty line for a  
18 household of four, which is \$36,900.00.<sup>2</sup> *See Annual Update*. Moreover, even if Mr.  
19 Brazier meant to state that his annual income was \$20,400.00 or \$8,700.00 and his  
20 spouse’s annual income was \$42,000.00—rather than that these amounts are average  
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22 <sup>2</sup> \$24,600.00 x 1.5 = \$36,900.00. *See Annual Update*.

1 monthly incomes—his household income is still well above the 150% threshold. (See  
2 IFP Mot. at 1); *Annual Update*. Because Mr. Brazier does not meet the standard for  
3 waiving the filing fee in a Chapter 7 appeal, the court denies Mr. Brazier's IFP motion.  
4 *See* 28 U.S.C. § 1930(f)(1) (stating that the court can waive the filing fee for an appeal in  
5 a Chapter 7 case if the appellant demonstrates an annual household income of 150% or  
6 less of the federal poverty line); *In re Bussey*, 2014 WL 2765703, at \*1 (requiring such a  
7 showing by a preponderance of the evidence).

8 **III. CONCLUSION**

9 For the foregoing reasons, the court DENIES Mr. Brazier's IFP motion (Dkt. # 4),  
10 and Mr. Brazier must pay the applicable filing fee to proceed with this appeal.

11 Dated this 14th day of November, 2017.

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15 JAMES L. ROBART  
16 United States District Judge  
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