

1 HONORABLE RONALD B. LEIGHTON

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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 JOHN ARTHUR PETERSON,

10 Plaintiff,

v.

11 QUINAULT BEACH RESORT AND
12 CASINO,

13 Defendant.

CASE NO. C17-5604 RBL

ORDER DENYING MOTION TO
PROCEED IFP

14 THIS MATTER is before the Court on Plaintiff John Peterson's motion to proceed *in*
15 *forma pauperis*, supported by a proposed complaint [Dkt #1]. Peterson is an unemployed model,
16 musician, and service worker. Peterson claims he descends from Russian, German, Irish, Native
17 American, and English Royalty. Peterson claims the Quinault Beach Resort and Casino fired him
18 without cause after he complained that he was sexually harassed by a female co-worker. He asks
19 the Court to award him \$10,000 or more in damages and \$8,000 or more for pain and suffering.

20 A district court may permit indigent litigants to proceed *in forma pauperis* upon
21 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad
22 discretion in resolving the application, but "the privilege of proceeding in *forma pauperis* in civil
23 actions for damages should be sparingly granted." *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir.

1 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should “deny leave to proceed in
2 *forma pauperis* at the outset if it appears from the face of the proposed [pleading] that the action
3 is frivolous or without merit.” *Tripati v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir.
4 1987) (citations omitted); see also 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis* complaint
5 is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v. Dawson*, 778
6 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

7 A pro se plaintiff’s complaint is to be construed liberally, but like any other complaint it
8 must nevertheless contain factual assertions sufficient to support a facially plausible claim for
9 relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (citing *Bell*
10 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). A
11 claim for relief is facially plausible when “the plaintiff pleads factual content that allows the
12 court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”
13 *Iqbal*, 556 U.S. at 678.

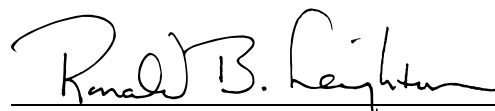
14 The standard governing *in forma pauperis* eligibility under 28 U.S.C. § 1915(a)(1) is
15 “unable to pay such fees or give security therefor.” A person is eligible if they are unable to pay
16 the costs of filing and still provide the necessities of life. *See Rowland v. Cal. Men's Colony,*
17 *Unit II Men’s Advisory Council*, 506 U.S. 194, 203 (1993) (internal quotations omitted).

18 Peterson failed to provide evidence of his indigency sufficient to merit leave to proceed
19 *in forma pauperis*. The Court allows litigants to proceed *in forma pauperis* only when they have
20 sufficiently demonstrated an inability to pay the filing fee. This generally includes incarcerated
21 individuals with no assets and persons who are unemployed and dependent on government
22 assistance. *See, e.g., Ilagan v. McDonald*, 2016 U.S. Dist. LEXIS 79889, at *2 (D. Nev. June 16,
23 2016) (granting petition based on unemployment and zero income); *Reed v. Martinez*, 2015 U.S.

1 Dist. LEXIS 80629, at *1, 2015 WL 3821514 (D. Nev. June 19, 2015) (granting petition for
2 incarcerated individual on condition that applicant provides monthly payments towards filing
3 fee). It does not include those whose access to the court system is not blocked by their financial
4 constraints, but rather are in a position of having to weigh the financial constraints pursuing a
5 case imposes. *See Sears, Roebuck & Co. v. Charles W. Sears Real Estate, Inc.*, 686 F. Supp. 385,
6 388 (N.D. N.Y.), *aff'd*, 865 F.2d 22 (2d Cir. 1988) (denying petition to proceed IFP because
7 petitioner and his wife had a combined annual income of between \$34,000 and \$37,000). In his
8 complaint, Peterson states he has \$20,000 for attorneys, a paid-off BMW, and a condo. [Dkt. #1,
9 Attach. 1 at 10]. Peterson has failed to demonstrate a level of economic necessity similar to those
10 who have received IFP status.

11 For this reason, Peterson's Motion for Leave to Proceed *in forma pauperis* [Dkt. #1] is
12 DENIED. Peterson shall pay the filing fee or the court will dismiss his claims within 21 days of
13 this order. Otherwise, his petition will be dismissed without further notice.

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15 Dated this 29th day of August, 2017.

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18 Ronald B. Leighton
19 United States District Judge
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