

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**ERNEST J. PAGELS, JR.,
Plaintiff,**

v.

Case No. 15-CV-0890

**U.S. OFFICE OF PERSONNEL MANAGEMENT
RECRUITMENT AND STAFFING,
Defendant.**

DECISION AND ORDER

Plaintiff Ernest Pagels, pro se, has filed an action against defendant United States Office of Personnel Management Recruitment and Staffing. Plaintiff seems to be challenging defendant's decision not to hire him based on his medical history. Ordinarily, a plaintiff must pay a filing fee of \$400 to bring an action in federal court, which includes the \$350 statutory filing fee and a \$50 administrative fee. 28 U.S.C. § 1914(a). However, plaintiff has requested leave to proceed in forma pauperis, pursuant to 28 U.S.C. § 1915.

Section 1915 is meant to ensure indigent litigants meaningful access to the federal courts, Nietzke v. Williams, 490 U.S. 319, 324 (1989), and applies to both nonprisoner plaintiffs and to plaintiffs who are incarcerated, Floyd v. United States Postal Serv., 105 F.3d 274, 275-77 (6th Cir. 1997) (“[T]he only logical interpretation of the statute is that non-prisoners have the option to proceed in forma pauperis under § 1915(a).”). Here, the heightened requirements of the Prison Litigation Reform Act do not apply. See West v. Macht, 986 F. Supp. 1141, (W.D. Wis. 1997). Under § 1915, an indigent party may commence a federal court action, without paying required costs and fees, upon submission

of an affidavit asserting inability “to pay such fees or give security therefor” and stating “the nature of the action, defense or appeal and the affiant’s belief that the person is entitled to redress.” 28 U.S.C. § 1915(a)(1).

Plaintiff has filed the required affidavits of indigence. Upon review of those affidavits, I am satisfied that plaintiff meets the poverty requirements of 28 U.S.C. § 1915. Plaintiff’s only source of income is his disability benefits, a large portion of which go to paying his monthly expenses. Additionally, plaintiff has stated the nature of his claim and asserted his belief that he is entitled to redress.

NOW, THEREFORE, IT IS HEREBY ORDERED that plaintiff’s request to proceed in forma pauperis is **GRANTED**.

IT IS ADDITIONALLY ORDERED, pursuant to Fed. R. Civ. P. 4(c)(3), that the U.S. Marshals Service shall serve a copy of the complaint, a waiver of service form and/or the summons, and this order upon defendant. Plaintiff is advised that Congress requires the U.S. Marshal’s Service to charge for making or attempting such service. 28 U.S.C. § 1921(b). The current fee for waiver-of-service packages is \$8 per item. 28 C.F.R. §§ 0.114(a)(2). Although Congress requires the court to order service by the U.S. Marshals Service precisely because in forma pauperis plaintiffs are indigent, it has not made any provision for these fees to be waived either by the court or by the U.S. Marshals Service.

Plaintiff, however, should provide defendant or its counsel with copies of all future motions or papers filed by the plaintiff in this action.

Dated at Milwaukee, Wisconsin this 4th day of August, 2015.

s/ Lynn Adelman

LYNN ADELMAN
District Judge