

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BRYAN DERRELL COLLINS,

Case No. 16-CV-1044-PP

Plaintiff,

v.

CAROLYN W. COLVIN,
Acting Commissioner of the
Social Security Administration,

Defendant.

**ORDER GRANTING PLAINTIFF'S
REQUEST TO PROCEED *IN FORMA PAUPERIS* (DKT. NO. 2)**

On August 8, 2016, the plaintiff (representing himself) filed a complaint requesting that the court review the denial of his Social Security disability insurance claims. Dkt. No. 1. Along with the complaint, the plaintiff filed an affidavit in support of his motion that the court allow him to proceed with the case without paying the filing fee. Dkt. No. 2. In order to allow a plaintiff to proceed without paying the filing fee, the court must first decide whether the plaintiff has the ability to pay the filing fee, and if not, must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and (e)(2)(B)(i).

In the affidavit, the plaintiff indicates that he is not employed, not married, has no dependents, and receives a total of \$194 of income each month through FoodShare benefits. Dkt. No. 2 at 1-2. He states that his household expenses total \$194 per month. *Id.* at 2. He does not own a car or a home, and

he has no other assets. The plaintiff has demonstrated that he cannot pay the full amount of the \$350 filing fee and \$50 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Neitzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993).

A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

In his complaint (the standard *pro se* form complaint), the plaintiff questions the denial of his application for disability insurance. Dkt. No. 1 at 2. The specific language of the standard form complaint states: "I, or the person on whose behalf I am filing this case, was disabled during the time period included in this case. I believe the Commissioner's unfavorable conclusions and findings of fact are not supported by substantial evidence; and/or are contrary to law and regulation." Id. at 3. The plaintiff attached to his complaint the adverse decision issued by an Administrative Law Judge of the Social Security Administration. The Social Security Appeals Council found no reason to review the ALJ's decision, which left the ALJ's adverse decision the final decision of the Commissioner.

Based on the allegations of the complaint (together with the exhibits to the complaint), the court cannot find at this point that the plaintiff's claims are frivolous or without merit. At this early stage in the case, the court concludes that there may be a basis in law or fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **ORDERS** that the plaintiff's motion for leave to proceed *in forma pauperis* (Dkt. No. 2) is **GRANTED**.

Dated in Milwaukee, Wisconsin this 17th day of August, 2016.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', is written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge