

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BARUCH ABRAMOV,

Case No. 16-cv-1238-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 September 14, 2016, the plaintiff, who is represented by counsel, filed a complaint requesting that the court review the denial of a portion of his Social Security Supplemental Income and 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 his affidavit, the plaintiff indicates that he is not employed or married, but he does have five minor children whom he supports. Dkt. No. 2 at 1. He receives no monthly wages or salary, but does receive \$608 per month of W2-T support, \$850 per month in Food Share benefits and \$300 per month in child

support. Id. at 2. He does not own a home, but owns a 2004 Jeep Liberty and has \$100 in a checking account. Id. at 2-3. He does not own any other property of value. Id. at 4. The affidavit indicates that the plaintiff has the following monthly expenses, totaling over \$2,200: \$825 rental payment, \$850 for groceries, \$160 to \$200 for utility payments, \$250-300 for cellular service, \$15 for internet service, \$83 for insurance, and \$25 per month for legal and tax services. Id. at 2-3. Based on these representations, the court concludes that 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 or fails to state a claim for which relief may be granted. 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).

The plaintiff seeks review of the ALJ's decision denying his application for Supplemental Security Income and Disability Insurance benefits for lack of disability. Dkt. No. 1. He alleges that he is disabled, and contends that the ALJ's unfavorable conclusions and findings of fact were not supported by

substantial evidence and are contrary to law and regulation. *Id.* at 2. Based on the allegations in the complaint, the court finds that the plaintiff has stated a claim that the Commissioner's decision denying the plaintiff's application for benefits is not supported by substantial evidence or is contrary to law and regulation. 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 19th day of September, 2016.

BY THE COURT:



HON. PAMELA PEPPER
United States District Judge