

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOEL BENADERET,

Plaintiff,

v.

Case No. 17-CV-844-pp

COMMISSIONER OF THE
SOCIAL SECURITY ADMINISTRATION,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYMENT OF THE FILING FEE (DKT. NO. 2)**

On June 16, 2017, the plaintiff filed a complaint seeking judicial review of a final administrative decision denying his application for supplemental security income and disability insurance benefits. Dkt. No. 1. The plaintiff also filed a motion for leave to proceed without prepayment of 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).

Based on the information provided by the plaintiff, the court concludes that he does not have the ability to pay the filing fee. The plaintiff is not employed and has no source of monthly income. He owns no real property, does not have a car or cash, and does not have checking or savings accounts. He indicates that he is depending on his family for everything. The plaintiff has

demonstrated that he cannot pay 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).

According to the plaintiff, the Appeals Council denied his request for review on April 19, 2017. He asserts that he produced “unanimous and compelling psychiatrist opinions” that he suffers from “chronic severe, and debilitating anxiety disorders, OCD disorders, eating disorders and social anxiety, which inhibit his ability to function on a daily basis and certainly impedes any possibility to perform any kind of work, even on a limited basis at this time.” Dkt. No. 1 at 4. The plaintiff asserts that the ALJ ignored this evidence, ignored and discredited the doctor's reports, and precluded the plaintiff's family from speaking on his behalf. 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.

The court **GRANTS** plaintiff's motion for leave to proceed without prepayment of the filing fee. Dkt. No. 2.

Dated in Milwaukee, Wisconsin this 11th day of September, 2017.

BY THE COURT:

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

HON. PAMELA PEPPER
United States District Judge