UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

WILLIAM FIGARELLI,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting Commissioner of Social Security,

Defendant.

Case No. 17-CV-1017-JPS

ORDER

William Figarelli filed a complaint in this matter and a motion for leave to proceed *in forma pauperis*. (Docket #1 and #3). The Court may grant the plaintiff's motion to proceed *in forma pauperis* if it determines that: (1) the plaintiff is truly indigent and unable to pay the costs of commencing this action; and (2) the plaintiff's action is neither frivolous nor malicious. 28 U.S.C. §§ 1915(a), (e)(2).

As to the first requirement, the privilege to proceed without payment of costs and fees "is reserved to the many truly impoverished litigants who…would remain without legal remedy if such privilege were not afforded to them." *Brewster v. N. Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972). The plaintiff has filed an affidavit accompanying the motion to proceed *in forma pauperis*, which demonstrates that he is indigent. (Docket #3). More precisely, the affidavit shows that the plaintiff is unemployed and his only source of income is a monthly allotment of $190 in food-share public assistance. *Id.* at 2. The plaintiff also indicates that he has $102.85 in a banking account. *Id.* at 3. He owns no assets such as a vehicle or home. *Id.* at 3-4. His monthly expenses include $780.69 for

rent, $62.00 for utilities, $190.00 for food, and $20.00 for laundry. *Id.* at 4-5. In other words, the plaintiff's expenses exceed his income. The Court is satisfied that the plaintiff is indigent and cannot afford the filing fee.

The plaintiff's action also is not frivolous or malicious. The complaint includes an allegation that the Social Security Administration committed an error of law in reaching a decision. (Docket #1). If that contention is true, then the Court will be obliged to vacate the decision. Thus, the plaintiff's action is neither frivolous nor malicious.

For those reasons, the Court will grant the plaintiff's motion for leave to proceed *in forma pauperis*.

Accordingly,

IT IS ORDERED that the plaintiff's motion for leave to proceed *in forma pauperis* (Docket #3) be and the same is hereby **GRANTED**.

Dated at Milwaukee, Wisconsin, this 1st day of August, 2017.

BY THE COURT:

J.P. Stadtmueller
U.S. District Judge