

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ANN TROWER,

Plaintiff,

v.

Case No. 17-cv-1330-pp

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

**ORDER GRANTING MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYMENT OF THE FILING FEE (DKT. NO. 3)**

On September 28, 2017, the plaintiff filed a complaint seeking judicial review of a partially favorable decision of the Commissioner of the Social Security Administration under 42 U.S.C. §405(g). Dkt. No. 1. The plaintiff also filed a motion for leave to proceed without prepayment of the filing fee. Dkt. No. 3.

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 facts presented in the affidavit, the court concludes that the plaintiff does not have the ability to pay the filing fee. The plaintiff's monthly expenses (\$930) exceed her monthly wages (\$925), and she identifies no assets

other than a car and approximately \$2,037 she received from MetLife. Based on the information provided, the court concludes that the plaintiff cannot pay the \$350 filing fee and \$50 administrative fee.

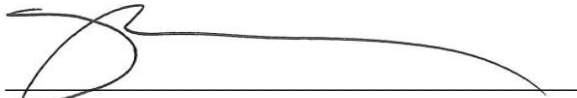
The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting *Neitzke v. Williams*, 489 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). 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 alleges that she was disabled during the period from February 4, 2010 through February 21, 2014, and that she continues to be disabled. She believes the Commissioner's unfavorable conclusions and findings of fact were not supported by substantial evidence and/or are 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 **GRANTS** the plaintiff's motion for leave to proceed without prepayment of the filing fee. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 30th day of October, 2017.

BY THE COURT:

A handwritten signature in black ink, consisting of a large, stylized initial 'P' followed by a long horizontal stroke that tapers to the right.

HON. PAMELA PEPPER
United States District Judge