

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

HEIDE NOONAN,

Plaintiff,

v.

Case No. 18-cv-641-pp

COMMISSIONER OF THE
SOCIAL SECURITY ADMINISTRATION,

Defendant.

**ORDER DENYING AMENDED MOTION FOR LEAVE TO PROCEED WITHOUT
PREPAYMENT OF THE FILING FEE (DKT. NO. 5)**

On April 23, 2018, the plaintiff filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. The plaintiff also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 2. The court issued an order on May 7, 2018, explaining that the plaintiff's affidavit in support of her request to proceed without prepaying the filing fee (dkt. no. 2) did not contain enough facts for the court to determine whether the plaintiff had the ability to pay the filing fee. Dkt. No. 3 at 1. The court required the plaintiff to file a new affidavit by May 27, 2018, Id. at 2. The court received the plaintiff's amended affidavit on May 22, 2018. Dkt. No. 5.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff has the ability to pay the filing fee, and if

not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the information in the amended affidavit, the court concludes that the plaintiff can pay the filing fee. It is true that the plaintiff states that she is unemployed and lives with her father. Dkt. No. 5 at 1-2. She says, however, that her spouse's income is \$4,300 per month, and that her spouse pays \$2,500 per month for groceries, clothing, medical costs, utilities, cell phone, internet and other expenses. *Id.* at 2. She lists a \$676.00 car payment, *id.* at 2, but says that she doesn't own a car, *id.* at 5. The court is not clear about what is going on—if the plaintiff is separated from her spouse and living with her father, it is not clear why her spouse is paying household expenses. But the plaintiff does not say that they are separated, and her spouse's income is enough to cover her expenses, *and* the car payment for the car she doesn't have, with enough left over to pay the \$350 filing fee and \$50 administrative fee.

The court **DENIES** the plaintiff's amended motion for leave to proceed without paying the filing fee. Dkt. No. 5. The court **ORDERS** that the plaintiff shall pay the \$350 filing fee and the \$50 administrative fee in time for the court to receive it by the end of the day on **Friday, September 28, 2018**. The plaintiff may make her payment in cash, by bringing it to the clerk's office, 517 East Wisconsin Avenue, Room 362, Milwaukee, between 8:30 a.m. and 4:30 p.m. She may mail in her payment by check, money order or cashier's check; she should make the check payable to Clerk, U.S. District Court, and bring it

in, or mail it to Clerk's Office, United States District Court, 517 East Wisconsin Avenue, Room 362, Milwaukee, WI 53202. She may also pay by credit card over the phone, by calling 414-297-3417 and asking for the cashier.

If the court does not receive the full \$400 payment by the end of the day on Friday, September 28, 2018, the court may dismiss the plaintiff's case for failure to pay the filing fee. If the plaintiff needs additional time to pay the fee, she should file a motion (before the end of the day on Friday, September 28, 2018), asking the court to give her additional time.

Dated in Milwaukee, Wisconsin this 28th day of August, 2018.

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