

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BRENDA MARCELL OWEN,

Plaintiff,

v.

NANCY BERRYHILL,¹
Acting Commissioner of Social Security,

Defendant.

ORDER

18-cv-100-wmc

BRENDA MARCELL OWEN,

Plaintiff,

v.

NANCY BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

ORDER

18-cv-101-wmc

BRENDA MARCELL OWEN,

Plaintiff,

v.

NANCY BERRYHILL,
Acting Commissioner of Social Security

Defendant.

ORDER

18-cv-106-wmc

Plaintiff Brenda Marcell Owen has filed three proposed complaints seeking review of a social security disability / supplemental security income decision. Owen asks for leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 and has supported her request with a financial affidavit.

Based on Owen's financial affidavit, *see, e.g.*, dkt. 2-1 in 18-cv-100, I find that Owen is unable to prepay the fees and costs of commencing this action or to give security therefor. However, before

¹ I have amended the caption of each case to reflect that Nancy Berryhill is presently the Acting Commissioner of Social Security.

I will direct the clerk's office to issue a summons, I note that Owen has failed to allege facts in her complaints showing that this court has the authority to decide her cases.

Under 42 U.S.C. § 405(g), this court has authority to review only a "final" decision of the Commissioner of Social Security denying a plaintiff's application for social security disability benefits. Under the social security rules, a decision denying social security benefits does not become final unless the claimant has completed all the steps of the administrative process, including filing a request for review with the Appeals Council. When the Appeals Council denies review, the decision of the commissioner becomes "final" and an appeal to federal court is permissible. Owen has not alleged that she has completed all of the steps of the administrative process and obtained a final decision from the commissioner.

Instead of dismissing the three complaints at this point, I will give Owen the opportunity to submit information showing that Owen has obtained final decisions from the commissioner on her applications for social security benefits. The easiest way to do this would be for Owen to submit a copy of the letter—or letters—from the Appeals Council denying her request for review, which Owen should have received if she completed the administrative process. Alternatively, Owen may submit a letter stating the specific date on which the final decision in her case was issued. Upon receipt of that information, the court will deem it to be an amendment to her complaints.

If, however, Owen has *not* taken all of the steps needed to complete the administrative review process, or has *not* yet received a final decision, then she may voluntarily dismiss these cases without prejudice, subject to reopening upon completing the administrative process.

ORDER

IT IS ORDERED that plaintiff Brenda Marcell Owen's request to proceed *in forma pauperis* in each case is GRANTED. Service of the complaints is STAYED until Owen shows that she has obtained a final decision (or decisions) from the commissioner and she identifies the administrative decision(s) that she is challenging. If Owen fails to submit this information by March 30, 2018, then the court will dismiss her lawsuits.

Entered this 21st day of February, 2018.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge