

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Jason J. v. Bisignano

Jamanila · No. 3:25-cv-02347-AHG · Decided September 28, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 JASON J., Case No.: 3:25-cv-02347-AHG 12 Plaintiff, ORDER
GRANTING PLAINTIFF’S MOTION FOR LEAVE TO 13 v. PROCEED IN FORMA
PAUPERIS 14 FRANK BISIGNANO, Commissioner of Social Security, [ECF No. 2] 15
Defendant. 16 17 18 19 20 21 22 23 On September 9, 2025, Plaintiff Jason J. (“Plaintiff”) brought
this action against the 24 Commissioner of Social Security, seeking judicial review of the
Commissioner’s final 25 administrative decision denying his application for Social Security
Disability Insurance 26 Benefits for lack of disability.

ECF No. 1. Along with his Complaint, Plaintiff also filed a 27 Motion for Leave to Proceed in
forma pauperis (“IFP”) under 28 U.S.C. § 1915. ECF 28 No. 2. 1 I. LEGAL STANDARD 2 A
motion to proceed IFP presents two issues for the Court’s consideration.

First, the 3 Court must determine whether an applicant properly shows an inability to pay the 4
\$4051 civil filing fee required by this Court. See 28 U.S.C. §§ 1914(a), 1915(a). To that 5 end, an
applicant must also provide the Court with a signed affidavit “that includes a 6 statement of all
assets[,] which shows inability to pay initial fees or give security.” CivLR 7 3.2(a).

Second, § 1915(e)(2)(B)(ii) requires the Court to evaluate whether an applicant’s 8 complaint
sufficiently states a claim upon which relief may be granted. See *Lopez v. Smith*, 9 203 F.3d 1122,
1127 (9th Cir. 2000) (“1915(e) not only permits but requires a district court 10 to dismiss an in
forma pauperis complaint that fails to state a claim.”). 11 II. DISCUSSION 12 A. Motion to
Proceed IFP 13 An applicant need not be completely destitute to proceed IFP, but he must
adequately 14 prove his indigence.

Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339–40 15 (1948). An adequate affidavit
should “allege[] that the affiant cannot pay the court costs 16 and still afford the necessities of
life.” *Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th 17 Cir. 2015) (citing *Adkins*, 335 U.S. at
339); see also *United States v. McQuade*, 647 F.2d 18 938, 940 (9th Cir.

1981) (an adequate affidavit should state supporting facts “with some 19 particularity, definiteness
and certainty”). No exact formula is “set forth by statute, 20 regulation, or case law to determine
when someone is poor enough to earn IFP status.” 21 *Escobedo*, 787 F.3d at 1235. Consequently,

courts must evaluate IFP requests on a case- 22 by-case basis. See *id.* at 1235–36 (declining to implement a general benchmark of “twenty 23 24 25 1 In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$55.

See 28 U.S.C. § 1914(a); UNITED STATES COURTS, DISTRICT COURT 26 MISCELLANEOUS FEE SCHEDULE § 14 (effective Dec. 1, 2023), 27 <https://www.uscourts.gov/services-forms/fees/district-court-miscellaneous-fee-schedule>. The additional \$55 administrative fee does not apply to persons granted leave to proceed 28 1 percent of monthly household income”); see also *Cal. Men’s Colony v. Rowland*, 939 F.2d 2 854, 858 (9th Cir.

1991) (requiring that district courts evaluate indigency based upon 3 available facts and by exercise of their “sound discretion”), *rev’d on other grounds*, 506 4 U.S. 194 (1993); *Venable v. Meyers*, 500 F.2d 1215, 1216 (9th Cir. 1974). 5 Here, Plaintiff states in his affidavit that he has \$200.00 in a checking account, has 6 no valuable assets other than a 2007 Acura TL, and has no other source of income.

ECF 7 No. 2 at 1–2. Plaintiff represents that his wife’s mother allows Plaintiff and his wife live in 8 her home rent-free and she also pays for groceries and necessities. *Id.* at 2. Plaintiff 9 additionally notes that he has \$30,000 to \$40,000 in credit card debt, that he has not been 10 able to pay in two years due to lack of income. *Id.* Considering the information in the 11 affidavit, the Court finds that Plaintiff has sufficiently shown an inability to pay the \$405 12 filing fee under § 1915(a).

13 B. Screening under 28 U.S.C. 1915(e) 14 As discussed above, every complaint filed pursuant to the IFP provisions of 28 15 U.S.C. § 1915 is subject to a mandatory screening by the Court under Section 16 1915(e)(2)(B). *Lopez*, 203 F.3d at 1127.

Under that subprovision, the Court must dismiss 17 complaints that are frivolous or malicious, fail to state a claim on which relief may be 18 granted, or seek monetary relief from defendants who are immune from such relief. See 28 19 U.S.C. § 1915(e)(2)(B). Social Security appeals are not exempt from this screening 20 requirement. See *Hoagland v. Astrue*, No. 1:12-cv-00973-SMS, 2012 WL 2521753, at *1 21 (E.D.

Cal. June 28, 2012) (“Screening is required even if the plaintiff pursues an appeal of 22 right, such as an appeal of the Commissioner’s denial of social security disability benefits 23 [under 42 U.S.C. 405(g)].”); see also *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) 24 (affirming that “the provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners”); 25 *Lopez*, 203 F.3d at 1129.

26 Rule 2 of the Federal Rules of Civil Procedure’s Supplemental Rules of Social 27 Security Actions sets forth the requirements for a complaint in an action appealing the 28 decision of the

Commissioner. FED. R. CIV. P., SUPPLEMENTAL R. 2 OF SOC. SEC. ACTIONS 1 UNDER 42 U.S.C. § 405(G) (effective Dec. 1, 2022) (The complaint must “(A) state that the 2 action is brought under § 405(g); (B) identify the final decision to be reviewed, including 3 any identifying designation provided by the Commissioner with the final decision; (C) state 4 the name and the county of residence of the person for whom benefits are claimed; (D) 5 name the person on whose wage record benefits are claimed; and (E) state the type of 6 benefits claimed.” The complaint may “include a short and plain statement of the grounds 7 for relief.”).

In the IFP screening context, however, “[t]he plaintiff must provide a 8 statement identifying the basis of the plaintiff’s disagreement with the ALJ’s determination 9 and must make a showing that he is entitled to relief, ‘in sufficient detail such that the Court 10 can understand the legal and/or factual issues in dispute so that it can meaningfully screen 11 the complaint pursuant to § 1915(e).’” *Jaime B. v. Saul*, No. 19cv2431-JLB, 2020 WL 12 1169671, at *2 (S.D.

Cal. Mar. 10, 2020) (quoting *Graves v. Colvin*, No. 15cv106-RFB- 13 NJK, 2015 WL 357121, at *2 (D. Nev. Jan. 26, 2015)). “Every plaintiff appealing an 14 adverse decision of the Commissioner believes that the Commissioner was wrong.

The 15 purpose of the complaint is to briefly and plainly allege facts supporting the legal 16 conclusion that the Commissioner’s decision was wrong.” *Hoagland*, 2012 WL 2521753, 17 at *2. 18 Having reviewed Plaintiff’s Complaint, the Court finds Plaintiff has sufficiently 19 stated a claim upon which relief may be granted. Specifically, in his complaint, Plaintiff 20 (1) states that he brings this action pursuant to 42 U.S.C. § 405(g); (2) identifies the final 21 decision of the Commissioner to be reviewed as the Appeals Council’s August 13, 2025, 22 denial of Plaintiff’s request for review of the Administrative Law Judge’s (“ALJ”) 23 unfavorable decision, (3) provides his name and states that he resides in San Diego County; 24 and (4) states the type of benefits claimed, namely, Social Security Disability Insurance 25 benefits.

ECF No. 1. Although it is optional to do so under Rule 2, Plaintiff further explains 26 his grounds for relief from the Commissioner’s decision, including that: (1) “The ALJ did 27 not properly analyze Plaintiff’s subjective symptoms, including pain, under the Ninth 28 Circuit’s two-step framework [by failing to] identify each subjective symptom allegation 1 and ... provide ‘clear and convincing reasons’ for rejecting any subjective symptom 2 allegations[;]” (2) “The ALJ Opinion improperly relied on activities of daily living to 3 discredit the Plaintiff without using the proper standard[;]” (3) “The ALJ Opinion 4 dismissing Plaintiff’s depression and anxiety as medically determinable but not ‘severe’ at 5 Step Two was clear legal error[;]” (4) “The ALJ Opinion relied on improper Vocational 6 Expert testimony[;]” and (5) “The ALJ’s actions were contrary to the law and in error and 7 were outcome determinative.” *Id.* at 3–4.

Upon due consideration, the Court finds that 8 Plaintiff’s complaint survives screening under 28 U.S.C. § 1915(e)(2)(B). 9 III. CONCLUSION 10 Based on the foregoing considerations, the

Court GRANTS Plaintiff's Motion to 11 Proceed In Forma Pauperis, without prepayment of fees or costs. ECF No. 2. 12 Typically, after granting IFP status, the Court would direct the Clerk's Office to 13 prepare and issue summons for the named Defendant, and direct the Plaintiff to complete 14 Form 285.

Then, the United States Marshal Service would serve a copy of the complaint 15 and summons on Defendant. However, in accordance with Rule 3 of the Federal Rules of 16 Civil Procedure's Supplemental Rules of Social Security Actions, and this district's 17 General Order 747, a notice of electronic filing shall be transmitted to the Social Security 18 Administration's Office of General Counsel and to the United States Attorney's Southern 19 District of California office in lieu of service of a summons.

See FED. R. CIV. P., 20 SUPPLEMENTAL R. 3 OF SOC. SEC. ACTIONS UNDER 42 U.S.C. § 405(G) (effective Dec. 1, 21 2022) ("The court must notify the Commissioner of the commencement of the action by 22 transmitting a Notice of Electronic Filing to the appropriate office within the Social 23 Security Administration's Office of General Counsel and to the United States Attorney for 24 the district where the action is filed. ... The plaintiff need not serve a summons and 25 complaint under Civil Rule 4."); General Order No. 747 (S.D.

Cal. Dec. 15, 2022) 26 (explaining that, in social security cases, the administrative record is due in lieu of an 27 answer "60[] days after service of the Notice of Electronic Filing of the complaint," 28 emphasizing that the service of summons is no longer a requirement).

Here, no further 1 || action is needed, as the Clerk's Office already transmitted the notice of electronic filing to 2 || Defendant in the instant case. See ECF No. 3, NEF ("The Notice of Electronic Filing of 3 complaint sent by the court to the Commissioner suffices for service of the complaint. 4 || The Plaintiff need not serve a summons and complaint under Civil Rule 4.").

5 IT IS SO ORDERED. 6 Dated: September 28, 2025 JpwornH. Xho Honorable Allison H. Goddard 8 United States Magistrate Judge 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28