

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

David M. H. v. Frank Bisignano, Commissioner of the Social Security Administration

David M. H. · No. Civ. No. 26-819 GBW · Decided March 20, 2026

SUMMARY

The United States District Court for the District of New Mexico grants Plaintiff David M. H.’s motion to proceed in forma pauperis under 28 U.S.C. § 1915(a). The court finds that Plaintiff is unemployed, that his monthly expenses exceed his income, and that he is unable to prepay the fees and costs of the proceeding.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	B. Wormuth
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	March 20, 2026
DOCKET	Civ. No. 26-819 GBW
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to proceed in forma pauperis in an action against the Commissioner of the Social Security Administration.
STANDARD OF REVIEW	The court examines the application papers and determines whether the requirements of 28 U.S.C. § 1915(a) are satisfied, evaluating the application in light of the applicant's present financial status.
PRECEDENTIAL VALUE	unpublished
PARTIES	David M. H. v. Frank Bisignano, Commissioner of the Social Security Administration

TOPICS

- civil procedure
- administrative law

PRACTICE AREAS

- Civil procedure
- Social Security
- In forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether Plaintiff satisfied the requirements for leave to proceed in forma pauperis under 28 U.S.C. § 1915(a).

HOLDINGS

1. Plaintiff demonstrated that he was unable to prepay the fees and costs of the proceeding, so the court granted leave to proceed in forma pauperis.

KEY QUOTATIONS

“While a litigant need not be “absolutely destitute,” “an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs and still be able to provide himself and dependents with the necessities of life.””

“Because Plaintiff’s monthly expenses exceed his monthly income, and because Plaintiff is unemployed, the Court concludes that Plaintiff is unable to prepay the fees and costs of this proceeding.”

FACTUAL BACKGROUND

Plaintiff submitted an affidavit declaring that he was unable to pay the costs of the proceeding and attesting under penalty of perjury that his income information was true. The court found that Plaintiff was unemployed and that his monthly expenses exceeded his monthly income. Based on those circumstances, the court concluded that Plaintiff could not prepay the fees and costs of the proceeding.

PROCEDURAL HISTORY

The court considered Plaintiff’s application and supporting affidavit for leave to proceed without prepayment of fees. The court found that Plaintiff’s monthly expenses exceeded his monthly income and that he was unemployed, and granted the motion.

DISPOSITION

other

CASES CITED

- *Menefee v. Werholtz*, 368 F. App’x 879, 884 (10th Cir. 2010)
- *Ragan v. Cox*, 305 F.2d 58, 60 (10th Cir. 1962)
- *Scherer v. Kansas*, 263 F. App’x 667, 669 (10th Cir. 2008)
- *Holmes v. Hardy*, 852 F.2d 151, 153 (5th Cir. 1988)
- *Adkins v. E. I. DuPont De Nemours & Co.*, 335 U.S. 331, 339, 344 (1948)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO
DAVID M. H., Plaintiff, v. Civ. No. 26-819 GBW FRANK BISIGNANO, Commissioner of the

Social Security Administration, Defendant. ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS This matter comes before the Court on Plaintiff's Motion for Leave to Proceed in Forma Pauperis. Doc. 2.

For the reasons stated below, the Court GRANTS Plaintiff's Motion. The statute for proceedings in forma pauperis, 28 U.S.C. § 1915(a), provides that the Court may authorize the commencement of any suit without prepayment of fees by a person who submits an affidavit that includes a statement of all assets the person possesses and that the person is unable to pay such fees.

When a district court receives an application for leave to proceed in forma pauperis, it should examine the papers and determine if the requirements of [28 U.S.C.] § 1915(a) are satisfied. If they are, leave should be granted. Thereafter, if the court finds that the allegations of poverty are untrue or that the action is frivolous or malicious, it may dismiss the case[.]

Menefee v. Werholtz, 368 F. App'x 879, 884 (10th Cir. 2010) (unpublished) (citing *Ragan v. Cox*, 305 F.2d 58, 60 (10th Cir. 1962)). "[A]n application to proceed in forma pauperis should be evaluated in light of the applicant's present financial status." *Scherer v. Kansas*, 263 F. App'x 667, 669 (10th Cir. 2008) (unpublished) (citing *Holmes v. Hardy*, 852 F.2d 151, 153 (5th Cir.

1988)). "The statute [allowing a litigant to proceed in forma pauperis] was intended for the benefit of those too poor to pay or give security for costs[.]" *Adkins v. E.. DuPont De Nemours & Co.*, 335 U.S. 331, 344 (1948). While a litigant need not be "absolutely destitute," "an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs and still be able to provide himself and dependents with the necessities of life." *Id.* at 339.

The Court grants Plaintiffs Motion to proceed in forma pauperis. Plaintiff signed an affidavit in support of his application in which he declares that he is unable to pay the costs of these proceedings and declares under penalty of perjury that the information regarding his income is true.

Because Plaintiff's monthly expenses exceed his monthly income, and because Plaintiff is unemployed, the Court concludes that Plaintiff is unable to prepay the fees and costs of this proceeding. See generally doc. 2.

Therefore, Plaintiffs Motion for Leave to Proceed in Forma Pauperis (doc. 2) is GRANTED. B. WORMUTH CHIEF ITED STATES MAGISTRATE JUDGE