

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, EASTERN DIVISION

Tamara H. v. Commissioner of Social Security

Tamara H. · No. 2:26-cv-79 · Decided January 23, 2026

SUMMARY

This Report and Recommendation addresses Plaintiff Tamara H.’s motion for leave to proceed in forma pauperis in a Social Security action. The magistrate judge recommends denying the motion because Plaintiff and her spouse have sufficient income, account funds, and automobile assets to pay the \$405 filing fee while providing for their necessities. The recommendation further states that Plaintiff should pay the fee within fourteen days if she intends to proceed.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Eastern Division
WRITING FOR THE COURT	Chelsey M. Vascura
JURISDICTION	United States District Court for the Southern District of Ohio, Eastern Division
DECIDED	January 23, 2026
DOCKET	2:26-cv-79
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to proceed in forma pauperis in a Social Security action. The Magistrate Judge issued a Report and Recommendation recommending denial of the application and payment of the filing fee.
STANDARD OF REVIEW	An applicant seeking in forma pauperis status must demonstrate by affidavit that, because of poverty, she cannot pay the filing fee while providing for the necessities of life. In evaluating the application, courts generally consider employment, income, expenses, assets, and other available financial resources, including resources of a spouse or family members.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Tamara H. v. Commissioner of Social Security

TOPICS

civil procedure administrative procedure act

PRACTICE AREAS

civil procedure administrative law Social Security

QUESTIONS PRESENTED

1. Whether Plaintiff demonstrated sufficient poverty to qualify for leave to proceed in forma pauperis under 28 U.S.C. § 1915(a).

HOLDINGS

1. Plaintiff did not demonstrate that poverty prevented her from paying the filing fee while providing for the necessities of life; the Magistrate Judge therefore recommended denying her application to proceed in forma pauperis.

KEY QUOTATIONS

“one must [not] be absolutely destitute to enjoy the benefit of the statute” (335 U.S. at 339)

“because of his [or her] poverty” (335 U.S. at 339)

FACTUAL BACKGROUND

Plaintiff was unemployed, but her affidavit showed that she and her spouse received combined monthly salary and retirement income of \$5,380.70. They had \$470 in a joint checking account and owned automobiles valued at more than \$110,000. The court concluded that these resources demonstrated an ability to pay the \$405 filing fee without being unable to provide for basic necessities.

PROCEDURAL HISTORY

Plaintiff filed an application to proceed in forma pauperis. After reviewing the affidavit, the Magistrate Judge concluded that Plaintiff had not demonstrated an inability to pay the filing fee and recommended that the application be denied and that Plaintiff pay the \$405 filing fee within fourteen days if she wished to proceed. The Report and Recommendation advised that objections would be reviewed de novo by a District Judge.

DISPOSITION

other

CASES CITED

- Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331 (1948)
- Giles v. Comm’r of Soc. Sec., No. 14-CV-11553, 2014 WL 2217136, at *1 (E.D. Mich. May 29, 2014)
- Cognetto v. Comm’r of Soc. Sec., 2014 WL 358465, at *1 (E.D. Mich. Jan. 31, 2014)

- Alisa Marie B. v. Comm’r of Soc. Sec., No. 2:23-CV-2622, 2023 WL 6554039, at *1 (S.D. Ohio Sept. 18, 2023)
- Reynolds v. Crawford, No. 1:01-cv-877, 2009 WL 3908911, at *1 (S.D. Ohio Nov. 17, 2009)
- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. Walters, 638 F.2d 947 (6th Cir. 1981)

OPINION

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PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

EASTERN DIVISION

TAMARA H.,¹

Plaintiff, v. Civil Action 2:26-cv-79 Magistrate Judge Chelsey M. Vascura

COMMISSIONER OF SOCIAL

SECURITY,

Defendant.

REPORT AND RECOMMENDATION

This matter is before the Court for consideration of Plaintiff’s Motion for Leave to Proceed in forma pauperis. (ECF No. 5.) For the reasons that follow, it is RECOMMENDED that Plaintiff’s Application be DENIED. To ensure access to courts, 28 U.S.C. § 1915(a) permits an indigent plaintiff to avoid payment of filing fees if the applicant demonstrates by affidavit the inability to pay such fees. The United States Supreme Court, in *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331,

(1948), set forth the legal standards governing applications to proceed in forma pauperis. The *Adkins* Court advised that “one must [not] be absolutely destitute to enjoy the benefit of the statute” and that the statute does not require an individual to “contribute . . . the last dollar they have or can get.” *Id.* at 339. The Court explained that “[t]he public would not be profited if 1 Pursuant to General Order 22-01, due to significant privacy concerns in social security cases, any opinion, order, judgment, or other disposition in social security cases in the Southern District of Ohio shall refer to plaintiffs only by their first names and last initials. relieved of paying costs of a particular litigation only to have imposed on it the expense of supporting the person thereby made an object of public support.” *Id.* Rather, what is required is a demonstration via affidavit that “because of his [or her] poverty,” the applicant cannot pay the fee and continue to provide for the necessities of life. *Id.* Courts evaluating applications to proceed in forma pauperis generally consider an applicant’s employment, annual income and expenses, and any other property or assets the individual possesses. *Giles v. Comm’r of Soc. Sec.*, No. 14-CV-11553, 2014 WL 2217136, at *1 (E.D. Mich. May 29, 2014) (citing *Cognetto v. Comm’r of Soc. Sec.*, 2014WL 358465, at *1

(E.D. Mich. Jan. 31, 2014)). Courts also “consistently consider his or her other financial resources, including resources that could be made available from the applicant’s spouse, or other family members, as well as equity in real estate and automobiles.” *Alisa Marie B. v. Comm’r of Soc. Sec.*, No. 2:23-CV-2622, 2023 WL 6554039, at *1 (S.D. Ohio Sept. 18, 2023) (cleaned up); see also *Reynolds v. Crawford*, No. 1:01-cv-877, 2009 WL 3908911, at *1 (S.D. Ohio Nov. 17, 2009) (collecting cases reflecting that “[t]he case law also directs the courts to consider the income and assets of the applicant’s spouse in assessing an application to proceed in forma pauperis.”) Here, the information set forth in Plaintiff’s in forma pauperis affidavit does not demonstrate her inability to pay. The application indicates that, although Plaintiff is not employed, she and her spouse have a combined monthly income of \$5,380.70 in salary and retirement benefits. It also demonstrates that Plaintiff and her spouse have \$470 in a joint checking account and that they own automobiles worth more than \$110,000. In sum, in view of Plaintiff’s assets totaling over \$110,000 and checking account funds sufficient to pay the filing fee, the undersigned finds that Plaintiff has not demonstrated that, because of her poverty, she is unable to pay for the costs of this litigation and still provide for herself. It is therefore RECOMMENDED that Plaintiff’s Motion for Leave to Proceed in forma pauperis be DENIED and that she be ordered to pay the required \$405.00 filing fee within FOURTEEN (14) DAYS if she intends to proceed.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A District Judge of this Court shall make a de novo determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a District Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation de novo, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

/s/ Chelsey M. Vascura

CHELSEY M. VASCURA

UNITED STATES MAGISTRATE JUDGE