

**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

OPINION

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