

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Michelle Smith v. Credit Union West

No. CV-26-02328-PHX-DWL (D. Ariz. Apr. 20, 2026) · No. No. CV-26-02328-PHX-DWL · Decided April 21, 2026

OPINION

Michelle Smith v. Credit Union West

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Michelle Smith, No. CV-26-02328-PHX-DWL 10 Plaintiff, ORDER 11 v. 12 Credit Union
West, 13 Defendant. 14 15 On April 13, 2026, the Court denied Plaintiff’s application for leave to
proceed in 16 forma pauperis (Doc. 3) and denied without prejudice Plaintiff’s motion for
reasonable 17 accommodation under the ADA (Doc. 4). (Doc. 8.) 18 On April 16, 2026, Plaintiff
filed a motion for reconsideration of the denial of her 19 application to proceed in forma pauperis
and a renewed request for limited procedural 20 accommodations. (Doc. 9.) 21 I. Motion For
Reconsideration 22 Motions for reconsideration are disfavored and should be denied “absent a
showing 23 of manifest error or a showing of new facts or legal authority that could not have been
24 brought to [the Court’s] attention earlier with reasonable diligence.” LRCiv. 7.2(g). 25
Reconsideration is an “extraordinary remedy” that is available only in “highly unusual 26
circumstances.” Kona Enters., Inc. v. Estate of Bishop, 229 F.3d 877, 890 (9th Cir. 2000) 27
(citations omitted). 28 The Court’s April 13, 2026 order considered Plaintiff’s financial situation
and the 1 applicable law and determined that Plaintiff did not meet the standard for proceeding in
2 forma pauperis: 3 The Court cannot find that Plaintiff has established the level of financial need
that would allow Plaintiff to proceed in forma pauperis. Escobedo v. 4 Applebees, 787 F.3d 1226,
1234 (9th Cir. 2015) (“An affidavit in support of an IFP application is sufficient where it alleges
that the affiant cannot pay the 5 court costs and still afford the necessities of life. . . . As this court
has recognized, one need not be absolutely destitute to obtain benefits of the in 6 forma pauperis
statute. Nonetheless, a plaintiff seeking IFP status must allege poverty with some particularity,
definiteness and certainty.”) (citations 7 and quotation marks omitted). 8 Plaintiff’s monthly
income is \$5,000 from her employment, plus \$3,976 from Supplemental Security Income, for a
total of \$8,976 per month. She drives 9 a 2025 Hyundai Santa Fe, on which she owes \$38,000.
Plaintiff has four children, ages 13, 12, 11, and 6, who rely on her for support. 10 Plaintiff’s
monthly income far exceeds the current federal poverty guidelines 11 for a family of five (\$38,680
per year). Badillo v. Comm’r of Soc. Sec., 2020 WL 2494575, *3 (E.D. Cal. 2020) (“In assessing
whether a certain income 12 level meets the poverty threshold under Section 1915(a)(1), courts

look to the federal poverty guidelines developed each year by the Department of Health and Human Services.”). She drives a nearly new vehicle. Her monthly expenses do not exceed her income, and some of those expenses appear excessive—for example, she appears to spend \$3,600-\$4,800 per year on clothing. Nor is the \$200-\$300 per month she spends on recreation and entertainment a necessity of life. Thus, Plaintiff can “pay the court costs and still afford the necessities of life.” Escobedo, 787 F.3d at 1234. “Courts have consistently held that IFP status should not be granted where an applicant can pay the filing fee with acceptable sacrifice to other expenses.” *Valentine v. Granville Realty, Inc.*, 18 2025 WL 1839935, *2 (E.D. Cal. 2025). “The Court is sympathetic to Plaintiff’s financial constraints, [but] to qualify for IFP status, a plaintiff must be experiencing such poverty that the plaintiff cannot reasonably pay court costs without forgoing the normal necessities of life.” *Reardon v. O’Malley*, 20 2024 WL 2160514, *2 (D. Idaho 2024). 21 (Doc. 8 at 1-2.) 22 Plaintiff’s motion for reconsideration argues that (1) Plaintiff’s gross monthly 23 income does not amount to “freely available disposable funds,” (2) the SSI benefits for 24 Plaintiff’s four disabled minor children “are used for the children’s support, housing 25 stability, utilities, food, transportation, developmental needs, and daily household 26 functioning” and should not be used “to pay filing fees,” (3) “Plaintiff’s caregiver-related 27 income also does not function as ordinary disposable wage income,” (4) Plaintiff spends 28 all of her income “repeatedly and quickly” on “household obligations, debt payments, 1 transportation costs, child-related necessities, disability-related expenses, and ordinary 2 living expenses for a household of five,” such that no “meaningful funds remain available 3 after necessary monthly obligations,” (5) Plaintiff’s bank accounts are routinely negative, 4 (6) Plaintiff “does not receive housing assistance, rental subsidy, SNAP, TANF, or similar 5 public benefits,” (7) Plaintiff’s “vehicle is upside down in equity, making it a liability rather 6 than a positive asset,” (8) Plaintiff’s spending on recreation and entertainment is spent on 7 “child-focused outings and community-based activities for four disabled children” which 8 are “tied to development, regulation, socialization, adaptive functioning, and community 9 access,” (9) Plaintiff’s transportation costs include “travel to the federal courthouse in 10 downtown Phoenix,” (10) “Plaintiff has been advised that Arizona’s Division of 11 Developmental Disabilities (‘DDD’) is implementing changes expected to reduce 12 children’s authorized service hours and parent caregiver hours,” (11) Plaintiff would not 13 ask for a fee waiver if she did not need it, and (12) the expenses Plaintiff listed on her 14 affidavit were not comprehensive. (Doc. 9 at 1-6.) Plaintiff attached as exhibits a credit 15 card statement, bank statement, email exchange regarding Plaintiff’s effort to increase 16 income, Experian credit profile, and Affirm account summaries. (Doc. 9-1.) 17 The Court reiterates that it is sympathetic to Plaintiff’s financial constraints and the 18 reality that raising four disabled children is not easy, especially when shouldering that 19 responsibility alone. Nevertheless, the motion for reconsideration does not demonstrate 20 manifest error in the Court’s analysis. The Court did not assume that the entirety of 21 Plaintiff’s \$8,976 monthly income was freely available. Far from it—the Court accepts as 22 reasonable the majority of the expenses Plaintiff

listed in her affidavit. Nevertheless, even 23 putting aside the \$3,976 of monthly SSI income, which is rightly devoted to Plaintiff's 24 children's needs, Plaintiff earns \$60,000 in gross annual income. Thus, Plaintiff's is a 25 middle-class wage earner. To the extent Plaintiff argues that both the \$3,976 of monthly 26 SSI income and the \$5,000 of employment income as a caregiver are exempt from being 27 used to pay court fees, the Court rejects that proposition.¹ Plaintiff does not address the 28

1 The Court notes that Plaintiff recently paid a \$367 filing fee in state court, before the case was removed to federal court. *Smith v. Office of Administrative Hearings et al*, 1 Court's observation that spending \$3,600-\$4,800 per year on clothing appears excessive. 2 Indeed, even assuming the low end of that range is correct, if Plaintiff simply reduced her 3 annual clothing purchases by \$405—which would still leave \$3,195 for annual clothing 4 purchases, which remains a significant sum—she would have enough money to pay the 5 filing fee. 6 Nor is there any merit to Plaintiff's assertion that owning an expensive, nearly new 7 vehicle is consistent with allegations of poverty because it is "a liability"—an older, less- 8 expensive vehicle would adequately transport the children. Plaintiff's focus on her current 9 equity level in the vehicle thus misses the point—when the in forma pauperis inquiry turns 10 on whether the applicant "cannot pay the court costs and still afford the necessities of life," 11 *Escobedo*, 787 F.3d at 1234, voluntary splurges on unnecessary luxuries can be 12 disqualifying. In a similar vein, although Plaintiff's account statements do not paint a full 13 picture of how her monthly income is spent, they do reveal that Plaintiff recently spent 14 \$79.00 on a massage, paid for myriad trips to fast food and sit-down restaurants, and paid 15 fees for entertainment services including Audible and Now That's TV. (Doc. 9-1 at 9-12.) 16 Again, the Court does not in any way begrudge Plaintiff for seeking to find some moments 17 of comfort and recreation in a life that is otherwise filled with important responsibilities, 18 but such expenditures undermine the notion that Plaintiff would be forced to forgo "the 19 necessities of life" if required to pay the same \$405 filing fee that all litigants in federal 20 court are presumptively expected to pay. 21 Plaintiff's contention that she pays for transportation to the federal courthouse is not 22 responsive to the April 13, 2026 order, which did not question the \$300-400 per month 23 Plaintiff spends on transportation, in addition to her \$695 vehicle payment and \$457.63 24 vehicle insurance. The Court notes, however, that Plaintiff may apply for electronic filing 25 privileges, which would cut down on trips to the courthouse.² 26 To reiterate, none of the above is intended as an indictment as to how Plaintiff 27

2:26-cv-01515-DWL, Doc. 1-3 at 7. 28 2

<https://www.azd.uscourts.gov/sites/azd/files/forms/ProSeMotionToEfile.pdf>. 1 || spends the funds available to her as the sole provider for her family. Plaintiff simply has 2|| not demonstrated that she cannot pay the filing fee for this case and still provide "the 3 || necessities of life" for her and her children. 4 As such, Plaintiff's motion for reconsideration is denied. 5}} Il. Renewed Request For Accommodations 6 The Court carefully considered Plaintiff's motion for reasonable accommodation ☐☐ under the ADA and explained that Plaintiff's requested accommodations all appear to be 8 || moot or premature. (Doc. 8.) Plaintiff has not addressed any portion of the Court's

|| analysis, and there does not appear to be any change in circumstance that would alter it. 10 Plaintiff's renewed request is therefore denied. 11 Accordingly, 12 IT IS ORDERED that Plaintiffs motion for reconsideration of the denial of her 13 || application to proceed in forma pauperis and renewed request for limited procedural || accommodations (Doc. 9) is denied 15 Dated this 20th day of April, 2026. 16 17 im a Dominic W, Lanza 19 United States District Judge 20 21 22 23 24 25 26 27 28 _5-