

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
INDIANA, HAMMOND DIVISION**

Jerry A. Smith v. MGM Property Management LLC, et al.

No. 2:25-CV-531-GSL-AZ, United States District Court for the Northern District of Indiana, Hammond
Division (November 25, 2025)

SUMMARY

The court denies Jerry A. Smith's motion to proceed in forma pauperis because the motion contains inconsistent financial information and does not establish inability to pay the filing fee. The complaint is dismissed without prejudice under 28 U.S.C. § 1915(e)(2)(B)(ii), and Plaintiff is granted leave to refile a corrected IFP motion and complaint using the clerk-supplied form.

OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA HAMMOND DIVISION JERRY A SMITH, Plaintiff, v. Case No. 2:25-CV-531-GSL-AZ MGM PROPERTY MANAGEMENT LLC, et al., Defendants. OPINION AND ORDER Before the Court is Plaintiff's Motion to Proceed in Forma Pauperis. [DE 3].

For the reasons below, the Court denies Plaintiff's Motion to Proceed in Forma Pauperis [DE 3] and dismisses the Complaint [DE 1] without prejudice, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Plaintiff is granted leave to refile his motion to proceed in forma pauperis using the clerk-supplied IFP form, in accordance with N.D. Ind. L.R. 7-6, and his corrected complaint, by December 25, 2025.

DISCUSSION Ordinarily, a plaintiff must pay a statutory filing fee to bring an action in federal court. 28 U.S.C. § 1914(a). An indigent party may commence an action in federal court, without prepayment of costs and fees, upon submission of an affidavit asserting an inability "to pay such fees or give security therefor." 28 U.S.C. § 1915(a).

Here, not only does Plaintiff's Motion fail to establish that he is unable to prepay the filing fee, but there are additional problems with his request. Plaintiff's own statements regarding his ability to pay are in direct contention. Plaintiff states that in the past 12 months he has had \$0 in income, however, he lists his gross monthly pay as several thousands of dollars between May and November.

[DE 3]. Equally as problematic, Plaintiff identifies himself as "Jerry A. Smith d/b/a 8100 LLC Handy Man Services/Smith and Tills Services." [DE 1]. If Plaintiff is bringing claims on behalf of his "d/b/a," he can be pro se and proceed IFP, but if he is an LLC, he cannot. An LLC must have a

lawyer and cannot be IFP b/c “only a natural person may qualify for treatment in forma pauperis under § 1915.” *Rowland v. California Men’s Colony*, 506 U.S. 194, 196 (1993).

CONCLUSION For both foregoing reasons, Plaintiff’s Motion to proceed In Forma Pauperis, [DE 3] is denied, and his Complaint [DE 1] is dismissed. Plaintiff is granted leave to refile his motion to proceed in forma pauperis using the clerk-supplied IFP form, in accordance with N.D. Ind. L.R. 7-6, and his corrected complaint, by December 29, 2025.

The clerk is directed to mail Plaintiff an AO239 form. SO ORDERED. ENTERED: November 25, 2025 /s/ GRETCHEN S. LUND Judge United States District Court