

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

**Sherylabigail Elissa Castro Santillan v. Frank J. Bisignano,
Commissioner of Social Security**

Castro Santillan v. Bisignano · No. 2:25-cv-02356-MDC · Decided December 30, 2025

OPINION

1 UNITED STATES DISTRICT COURT 2 DISTRICT OF NEVADA 3 4 Sherylabigail Elissa
Castro Santillan, Case No. 2:25-cv-02356-MDC 5 Plaintiff, ORDER GRANTING PLAINTIFF’S
6 vs. APPLICATION TO PROCEED IN FORMA Frank J. Bisignano, Commissioner of Social
PAUPERIS (ECF NO. 8) AND SCREENING 7 Security, PLAINTIFF’S COMPLAINT (ECF NO.
1-1) 8 Defendant. 9 10 Plaintiff Sherylabigail Elissa Castro Santillan filed an Amended
Motion/Application to Proceed 11 In Forma Pauperis (“IFP”) following the Court’s denial of her
prior IFP application.

ECF Nos. 6, 8. 12 This is a social security appeal and plaintiff is represented by counsel. The
Court GRANTS plaintiff’s 13 IFP application and screens her complaint. 14 I. WHETHER
PLAINTIFF CAN PROCEED IFP 15 a. General Legal Principles 16 Under 28 U.S.C. § 1915(a)
(1), a plaintiff may bring a civil action “without prepayment of fees or 17 security thereof” if the
plaintiff submits a financial affidavit that demonstrates the plaintiff “is unable to 18 pay such fees
or give security therefor.” The Ninth Circuit has recognized that “there is no formula set 19 forth
by statute, regulation, or case law to determine when someone is poor enough to earn IFP status.”
20 Escobedo v. Applebees, 787 F.3d 1226, 1235 (9th Cir.

2015). An applicant need not be destitute to 21 qualify for a waiver of costs and fees, but he must
demonstrate that because of his poverty he cannot pay 22 those costs and still provide himself
with the necessities of life. Adkins v. E.I DuPont de Nemours & 23 Co., 335 U.S. 331, 339 (1948).
24 25 1 1 The applicant’s affidavit must state the facts regarding the individual’s poverty “with
some 2 particularity, definiteness and certainty.” United States v. McQuade, 647 F.2d 938, 940
(9th Cir.

1981) 3 (citation omitted). If an individual is unable or unwilling to verify his or her poverty,
district courts have 4 the discretion to make a factual inquiry into a plaintiff’s financial status and
to deny a request to proceed 5 in forma pauperis. See, e.g., Marin v. Hahn, 271 Fed.Appx. 578
(9th Cir. 2008) (finding that the district 6 court did not abuse its discretion by denying the
plaintiff’s request to proceed IFP because he “failed to 7 verify his poverty adequately”).

Misrepresentation of assets is sufficient grounds in themselves for 8 denying an in forma pauperis
application. Cf. Kennedy v. Huibregtse, 831 F.3d 441, 443-44 (7th Cir. 9 2016) (affirming

dismissal with prejudice after litigant misrepresented assets on in forma pauperis 10 application). 11 The District of Nevada has adopted three types of IFP applications: a “Prisoner Form” for 12 incarcerated persons and a “Short Form” (AO 240) and “Long Form” (AO 239) for non-incarcerated 13 persons.

The Long Form requires more detailed information than the Short Form. The court typically 14 does not order an applicant to submit the Long Form unless the Short Form is inadequate, more 15 information is needed, or it appears that the plaintiff is concealing information about his income for 16 determining whether the applicant qualifies for IFP status. When an applicant is specifically ordered to 17 submit the Long Form, the correct form must be submitted, and the applicant must provide all the 18 information requested in the Long Form so that the court is able to make a fact finding regarding the 19 applicant's financial status.

See e.g., *Greco v. NYE Cty. Dist. Judge Robert Lane*, No. 2:15-cv-001370- 20 MMD-PAL, 2016 WL 7493981, at *3 (D. Nev. Nov. 9, 2016), report and recommendation adopted sub 21 nom. *Greco v. Lake*, No. 2:15-cv-001370-MMD-PAL, 2016 WL 7493963 (D. Nev. Dec. 30, 2016). 22 // 23 // 24 // 25 2 1 b. Analysis 2 The Court denied plaintiff's prior IFP application and ordered her to file a IFP long-form 3 application or pay the filing fee if she wanted to proceed in this matter.

ECF No. 6. Plaintiff's original 4 IFP was denied because plaintiff did not disclose her Section 8 benefits as a public assistance income 5 source in the first box of her application, how much she pays for rent, and how much her boyfriend 6 helps pay for the monthly expenses disclosed in the original IFP application. Id. 7 The Court now finds that plaintiff now qualifies for IFP status.

Plaintiff filed a long-form IFP 8 application. ECF No. 8. She states that she pays \$1,550 monthly in rent (fully paid for by her Section 8 9 benefits), and that her boyfriend pays for the monthly utility expenses (around \$100). Id. at 4-5. Plaintiff 10 lists \$292 in food stamps (with \$546 in food stamps expected next month) and the \$1,550 in Section 8 11 benefits as her sole sources of income and states that she pays \$2,196 in total monthly expenses.

Id. at 1- 12 2, 4-5. Thus, plaintiff uses all of her monthly income and relies on her boyfriend's financial support to 13 pay her listed monthly expenses. While plaintiff listed her Section 8 benefits as an “other” income 14 source in the first box of her application instead of as a public assistance source, altogether his answers 15 throughout the application provide further explanation that she “is unable to pay such fees or give 16 security therefor.” 28 U.S.C. § 1915(a)(1); see generally ECF No. 8.

Plaintiff may proceed with this 17 action without paying the filing fee. 18 II. WHETHER PLAINTIFF STATES A PLAUSIBLE CLAIM 19 a. Legal Standard 20 Upon granting a request to proceed in forma pauperis, a court must additionally screen a complaint 21 pursuant to § 1915(e). Federal courts are given the authority to dismiss a case if the action is legally 22 “frivolous or

malicious,” fails to state a claim upon which relief may be granted or seeks monetary relief 23 from a defendant who is immune from such relief.

See § 1915(e)(2). “To survive a motion to dismiss, a 24 25 3 1 complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible 2 on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotations and citation omitted). 3 In considering whether the plaintiff has stated a claim upon which relief can be granted, all material 4 allegations in the complaint are accepted as true and are to be construed in the light most favorable to the 5 plaintiff.

Russell v. Landrieu, 621 F.2d 1037, 1039 (9th Cir. 1980). When a court dismisses a complaint 6 under § 1915(e), the plaintiff should be given leave to amend the complaint with directions as to curing 7 its deficiencies, unless it is clear from the face of the complaint that the deficiencies could not be cured by 8 amendment. See *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir.

1995) (citation omitted). 9 b. Complaint 10 Plaintiff’s complaint arises from an unfavorable decision by the Commissioner of Social Security 11 Administration. ECF No. 1-1. Plaintiff asserts that she is disabled as that term is defined in the Social 12 Security Act, and that she filed an application for disability insurance benefits. *Id.* The Commissioner 13 denied the application.

Id. She argues that the Administrative Law Judge’s decision is not supported by 14 the evidence. *Id.* Plaintiff has appealed the decision of the Commissioner to this Court. *Id.* 15 Plaintiff may appeal to this Court the Commissioner’s denial of her application for Disability 16 Insurance Benefits under Title II of the Social Security Act. See 42 U.S.C. §§ 401-433.

This Court has 17 jurisdiction over the matter. *Id.* Construing plaintiff’s allegations in the light most favorable to plaintiff, 18 the Court finds that plaintiff has asserted a claim upon which relief can be granted. See *Russell*, 621 F.2d 19 at 1039. 20 // 21 // 22 // 23 // 24 // 25 4 1 ACCORDINGLY, and for good cause shown, 2 IT IS ORDERED that: 3 1. Plaintiff’s Application to Proceed in Forma Pauperis (ECF No. 8) is GRANTED.

Plaintiff is 4 permitted to maintain this action without the necessity of prepayment of fees or costs or the 5 giving of security. 6 2. The Clerk of the Court is directed to file the complaint (ECF No. 1-1). The complaint shall be 7 served on the Commissioner in accordance with Rule 3 of the Supplemental Rules for Social 8 Security Actions under 42 U.S.C. § 405(g).

9 3. The Court accepts defendant counsel’s Notice of Appearance (ECF No. 7) as proper given that 10 the IFP application has now been granted. 11 12 IT IS SO ORDERED. 13 DATED: December 30, 2025. LIL, Hon, MéximiliangD. Couvi er, II 15 Unjfed States (7 dge NOTICE 16 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and recommendations issued by the magistrate judge.

Objections must be in writing and filed with the Clerk 19 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal 50 may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) 33 failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court.

Martinez v. Ylst, 951 F.2d 95 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). 1 Pursuant to LR IA 3-1, the plaintiff must immediately file written notification with the court of any 2 change of address.

The notification must include proof of service upon each opposing party's attorney, 3 or upon the opposing party if the party is unrepresented by counsel. Failure to comply with this rule may 4 result in dismissal of the action. 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 6