

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
CALIFORNIA**

**Luis B. v. Frank Bisignano, Commissioner of Social Security**

Luis B. v. Bisignano, Case No. 3:25-cv-03484-AHG (S.D. Cal. Dec. 17, 2025) · No. 3:25-cv-03484-AHG ·  
Decided December 17, 2025

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**OPINION**

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF  
CALIFORNIA 10 11 LUIS B., Case No.: 3:25-cv-03484-AHG 12 Plaintiff, ORDER GRANTING  
MOTION FOR LEAVE TO PROCEED IN FORMA 13 v. PAUPERIS 14 FRANK BISIGNANO,  
Commissioner of Social Security, [ECF No. 3] 15 Defendant. 16 17 18 On December 9, 2025,  
Plaintiff Luis B. (“Plaintiff”) brought this action against the 19 Commissioner of Social Security,  
Frank Bisignano, seeking judicial review of the 20 Commissioner’s final administrative decision  
denying his application for Social Security 21 disability insurance benefits and Supplemental  
Security Income for lack of disability.

ECF 22 No. 1. Along with his Complaint, Plaintiff also filed a Motion for Leave to Proceed in 23  
forma pauperis (“IFP”) under 28 U.S.C. § 1915. ECF No. 3. 24 I. LEGAL STANDARD 25 A  
motion to proceed IFP presents two issues for the Court’s consideration.

First, the 26 Court must determine whether an applicant properly shows an inability to pay the  
\$405 27 civil filing fee required by this Court. See 28 U.S.C. §§ 1914(a), 1915(a). To that end, an  
28 applicant must also provide the Court with a signed affidavit “that includes a statement of 1 all  
assets[,] which shows inability to pay initial fees or give security.” CivLR 3.2(a).

2 Second, § 1915(e)(2)(B)(ii) requires the Court to evaluate whether an applicant’s complaint 3  
sufficiently states a claim upon which relief may be granted. See *Lopez v. Smith*, 203 F.3d 4 1122,  
1127 (9th Cir. 2000) (“1915(e) not only permits but requires a district court to 5 dismiss an in  
forma pauperis complaint that fails to state a claim.”). 6 II. DISCUSSION 7 A. Motion to Proceed  
IFP 8 An applicant need not be completely destitute to proceed IFP, but he must adequately 9  
prove his indigence.

*Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339–40 10 (1948). An adequate affidavit  
should “allege[] that the affiant cannot pay the court costs 11 and still afford the necessities of  
life.” *Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th 12 Cir. 2015) (citing *Adkins*, 335 U.S. at  
339). No exact formula is “set forth by statute, 13 regulation, or case law to determine when  
someone is poor enough to earn IFP status.” 14 *Escobedo*, 787 F.3d at 1235.

Consequently, courts must evaluate IFP requests on a case- 15 by-case basis. See *id.* at 1235–36 (declining to implement a general benchmark of “twenty 16 percent of monthly household income”); see also *Cal. Men’s Colony v. Rowland*, 939 F.2d 17 854, 858 (9th Cir. 1991) (requiring that district courts evaluate indigency based upon 18 available facts and by exercise of their “sound discretion”), *rev’d on other grounds*, 506 19 U.S. 194 (1993); *Venable v. Meyers*, 500 F.2d 1215, 1216 (9th Cir.

1974). 20 Here, Plaintiff states in his affidavit that he receives \$600 per month in general relief 21 public assistance and \$181 per month in food stamps, income that is largely offset by the 22 cost of staying in a hotel during the week, as Plaintiff is homeless. ECF No. 3 at 2, 4-5. 23 Plaintiff further avers that he has been unemployed for the past two years and has no funds 24 in either a checking or savings account.

*Id.* at 2. Based on the information in the affidavit, 25 the Court finds that Plaintiff has sufficiently demonstrated an inability to pay the \$405 26 filing fee under § 1915(a). 27 // 28 // 1 B. Screening under 28 U.S.C. 1915(e) 2 As discussed above, every complaint filed pursuant to the IFP provisions of 28 3 U.S.C. § 1915 is subject to a mandatory screening by the Court under Section 4 1915(e)(2)(B).

*Lopez*, 203 F.3d at 1127. Under that subprovision, the Court must dismiss 5 complaints that are frivolous or malicious, fail to state a claim on which relief may be 6 granted, or seek monetary relief from defendants who are immune from such relief. See 28 7 U.S.C. § 1915(e)(2)(B). Social Security appeals are not exempt from this screening 8 requirement. See *Hoagland v. Astrue*, No. 1:12-cv-00973-SMS, 2012 WL 2521753, at \*1 9 (E.D.

Cal. June 28, 2012) (“Screening is required even if the plaintiff pursues an appeal of 10 right, such as an appeal of the Commissioner’s denial of social security disability benefits 11 [under 42 U.S.C. 405(g)].”); see also *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) 12 (affirming that “the provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners”); 13 *Lopez*, 203 F.3d at 1129.

14 In the past, this Court and others have applied the familiar Rule 8 pleading standard 15 to conduct the mandatory screening of complaints under the IFP statute in Social Security 16 appeals brought pursuant to 42 U.S.C. § 405(g). See, e.g., *Hoagland*, 2012 WL 2521753, 17 at \*2-3; (applying Fed. R. Civ. P. 8(a) to determine the sufficiency of a complaint in a 18 Social Security appeal); *Jaime B. v. Saul*, No. 3:19-CV-02431-JLB, 2020 WL 1169671, at 19 \*3 (S.D.

Cal. Mar. 10, 2020) (same); *Detra H. v. Kijakazi*, No. 3:22-CV-01162-AHG, 2022 20 WL 4230547, at \*2 (S.D. Cal. Aug. 10, 2022) (same). However, since the Federal Rules of 21 Civil Procedure’s Supplemental Rules for Social Security Actions Under 42 U.S.C. 22 § 405(g)

(“Supplemental Rules”) became effective on December 1, 2022, the standard for 23 screening complaints in the Social Security appeals context has changed.

Now, to the extent 24 that the Federal Rules of Civil Procedure are inconsistent with the Supplemental Rules, the 25 Court must apply the Supplemental Rules rather than the Civil Rules. Fed. R. Civ. P. SUPP 26 SS Rule 2 Committee Note. “Supplemental Rules 2, 3, 4, and 5 are the core of the 27 provisions that are inconsistent with, and supersede, the corresponding rules on pleading, 28 service, and presenting the action for decision.” Id. 1 Rule 2 of the Supplemental Rules for Social Security Actions sets forth the 2 requirements for a complaint in an action appealing the decision of the Commissioner.

3 Accordingly, the Court must apply Rule 2 to determine whether Plaintiff’s Complaint 4 sufficiently states a claim for relief. Under that Rule, the complaint must: 5 (A) state that the action is brought under § 405(g); (B) identify the final decision to be reviewed, including any identifying 6 designation provided by the Commissioner with the final decision; 7 (C) state the name and the county of residence of the person for whom benefits are claimed; 8 (D) name the person on whose wage record benefits are claimed; and 9 (E) state the type of benefits claimed.

10 Fed. R. Civ. P. SUPP SS Rule 2(b)(1)(A)-(E). Additionally, Rule 2(b)(2) provides that the 11 complaint may “include a short and plain statement of the grounds for relief.” 12 In his Complaint, Plaintiff (1) states that he brings this action pursuant to § 405(g); 13 (2) identifies the final decision of the Commissioner to be reviewed as the Administrative 14 Law Judge’s (“ALJ”) decision that became final on October 21, 2025 after the Appeals 15 Council declined to assume jurisdiction; (3) provides his name and county of residence on 16 the cover sheet; (4) provides that he is claiming benefits on his own wage record; and 17 (5) states the type of benefits.

ECF No. 1 ¶¶ 1, 3, 6, 9; ECF No. 1-1. Plaintiff further 18 includes a description of his grounds for relief in the Complaint, including that there is not 19 substantial medical or vocational evidence in the record to support the legal conclusion that 20 Plaintiff is not disabled. ECF No. 1 at 2-3. 21 Plaintiff’s Complaint satisfies all pleading requirements of Rule 2(b) of the 22 Supplemental Rules for Social Security Actions, and there is no indication that the 23 Complaint is frivolous or malicious or seeks monetary relief from a defendant who is 24 immune from such relief.

Accordingly, the Court finds that the Complaint survives 25 screening under 28 U.S.C. § 1915(e) (2)(B). 26 // 27 // 28 // 1 rl. CONCLUSION 2 Based on the foregoing considerations, the Court GRANTS Plaintiff’s Motion to 3 // Proceed IFP (ECF No. 3). 4 In accordance with Rule 3 of the Federal Rules of Civil Procedure’s Supplemental 5 // Rules for Social Security Actions, and this District’s General Order 747, a notice of 6 // electronic filing shall be transmitted to the Social Security Administration’s Office of 7 // General Counsel and to the United States Attorney’s Southern District of California office 8 lieu of service of a summons.

No further action by Plaintiff is needed to effect service 9 || of the Complaint, as the Clerk's Office already transmitted the notice of electronic filing 10 the Complaint to Defendant in the instant case. See ECF No. 4, NEF ("The Notice of 11 |Electronic Filing of the complaint sent by the court to the Commissioner suffices for 12 || service of the complaint.

The Plaintiff need not serve a summons and complaint under Civil 13 4."). 14 IT IS SO ORDERED. 15 ||Dated: December 17, 2025 ° Men H. Xylolead 17 Honorable Allison H. Goddard 18 United States Magistrate Judge 19 20 21 22 23 24 25 26 27 28