UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK

Helen Rebekah Garber v. Ulster County, including its agencies, et al.

Garber · No. 1:26-CV-408 (AJB/DJS) · Decided April 10, 2026

SUMMARY

The document is a Report-Recommendation and Order concerning Helen Rebekah Garber's motion to proceed in forma pauperis in an action against Ulster County and related defendants. The magistrate judge recommends denying the motion because the financial information submitted indicates that Plaintiff can prepay the $405 filing fee. Plaintiff is given fourteen days, or seventeen days if served by mail while proceeding pro se, to object.

CASE DETAILS

COURT	United States District Court for the Northern District of New York
WRITING FOR THE COURT	Daniel J. Stewart
JURISDICTION	United States District Court for the Northern District of New York
DECIDED	April 10, 2026
DOCKET	1:26-CV-408 (AJB/DJS)
DISPOSITION	other
PROCEDURAL POSTURE	A pro se plaintiff filed a motion for leave to proceed in forma pauperis. The magistrate judge issued a report-recommendation recommending denial of the motion and warning that the complaint would be dismissed if plaintiff did not pay the filing fee or provide additional information within thirty days.
STANDARD OF REVIEW	A court has discretion to grant or deny in forma pauperis status under 28 U.S.C. § 1915(a)(1), based on whether the applicant is unable to pay the filing fee or provide security for it.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Helen Rebekah Garber v. Ulster County, including its agencies, et al.

TOPICS

civil procedure

PRACTICE AREAS

civil procedure | in forma pauperis proceedings | federal civil rights litigation

QUESTIONS PRESENTED

1. Whether plaintiff demonstrated that she was unable to pay the filing fee or provide security for it under 28 U.S.C. § 1915(a)(1).
2. Whether plaintiff's motion for leave to proceed in forma pauperis should be denied based on her reported income and assets.

HOLDINGS

1. Plaintiff did not demonstrate an inability to pay the filing fee because her reported income and assets showed that she could prepay the entire $405 filing fee.

KEY QUOTATIONS

> *“A court may authorize a litigant to proceed in forma pauperis (“IFP”) if it determines that she is unable to pay the filing fee.”* (at 1)

> *“As a standard for determining eligibility for IFP status, section 1915(a)(1) does not set financial guideposts; instead, the statute merely provides that IFP status may be granted when the court is satisfied “that the person is unable to pay such fees or give security therefor.””* (at 2)

> *“To make this threshold showing a plaintiff must demonstrate “that paying such fees would constitute a serious hardship on the plaintiff, not that such payment would render plaintiff destitute.””* (at 2)

FACTUAL BACKGROUND

Plaintiff's in forma pauperis application reported gross wages of $5,442.30 every two weeks, or approximately $141,499.80 annually. The application also reported $1,789.48 in cash or checking or savings accounts, an emergency fund of $11,757.94, ownership of an automobile, and substantial monthly expenses and financial obligations. Based on the income and assets disclosed, the court found that plaintiff could prepay the $405 filing fee.

PROCEDURAL HISTORY

The Clerk referred plaintiff's motion for leave to proceed in forma pauperis to Magistrate Judge Daniel J. Stewart for review. The magistrate judge recommended that the motion be denied because plaintiff's disclosed income and assets showed an ability to prepay the filing fee, and ordered service of the report-recommendation. The parties were given fourteen days to object under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- Carro v. Gaul, 2025 WL 3963357, at *2 n.4 (N.D.N.Y. Oct. 27, 2025)
- Kiobel v. Millson, 592 F.3d 78, 92 (2d Cir. 2010)
- Virola v. Gonyo, 2024 WL 5361071, at *1 (N.D.N.Y. Dec. 2, 2024)
- Fiebelkorn v. U.S., 77 Fed. Cl. 59, 62
- Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339, 69 S. Ct. 85 (1948)
- Lee v. McDonald's Corp., 231 F.3d 456, 458 (8th Cir. 2000)
- Potnick v. Eastern State Hosp., 701 F.2d 243, 244 (2d Cir. 1983)
- Zavala v. Cornell Univ., 2011 WL 13353099, at *2 (N.D.N.Y. Dec. 13, 2011)
- Eliacin v. Cnty. of Broome, New York, 2009 WL 10721277, at *2 (N.D.N.Y. June 11, 2009)
- Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993)
- Small v. Secretary of Health and Human Services, 892 F.2d 15 (2d Cir. 1989)

OPINION

Garber

PER CURIAM.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

HELEN REBEKAH GARBER,

Plaintiff, 1:26-CV-408

v. (AJB/DJS)

ULSTER COUNTY, including its agencies, et al., Defendants. APPEARANCES:

HELEN REBEKAH GARBER

Plaintiff, Pro Se "| Port Ewen, New York 12466

DANIEL J. STEWART

United States Magistrate Judge

REPORT-RECOMMENDATION and ORDER!

The Clerk of the Court has sent to the undersigned for review a Motion for Leave to Proceed Jn Forma Pauperis (the "Motion") filed by pro se Plaintiff. Dkt. No. 2.7? For | the reasons explained below, the Court recommends that the Motion be DENIED. decision to deny or revoke IFP status [ ] is generally regarded as dispositive and thus falls outside [a magistrate judge's] purview." Carro v. Gaul, 2025 WL 3963357, at *2 n.4 (N.D.N.Y. Oct. 27, 2025) (alterations in original) (quotations and internal quotation marks omitted) (citing, inter alia, Kiobel v. Millson, 592 F.3d 78, 92 (2d Cir. 2010)), report and recommendation adopted, 2025 WL 3521300 (N.D.N.Y. Dec. 8, 2025). 2 Citations to the Motion are to page numbers provided by the Court's CM/ECF system. _|- A court may authorize a litigant to proceed in forma pauperis ("IFP") if it determines that she is unable to pay the filing fee. 28 U.S.C. § 1915(a)(1). "The decision of whether to grant an application to proceed IFP rests within the sound discretion of the court." Virola v. Gonyo, 2024 WL 5361071, at *1 (N.D.N.Y. Dec. 2, 2024) (citation omitted), report and recommendation adopted, 2025 WL

317243 (N.D.N.Y. Jan. 28, 2025).° As a standard for determining eligibility for IFP status, section 1915(a)(1) does not set financial guideposts; instead, the statute merely provides that IFP status may be granted when the court is satisfied “that the person is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a)(1). To make this threshold showing a plaintiff must demonstrate “that paying such fees would constitute a serious hardship on the plaintiff, not that such payment would render plaintiff destitute.” Fiebelkorn v. U. S., 77 Fed. Cl. at 62 (citing Adkins v. EI. DuPont de Nemours & Co., 335 U.S. 331, 339, 69 S. Ct. 85 (1948)). Put another way, section 1915(a)(1) does not require a showing of absolute destitution to qualify for IFP status. Lee v. McDonald’s Corp., 231 F.3d 456, 458 (8th Cir. 2000). As the Second Circuit has noted, “[n]o party must be made to choose between abandoning a potential meritorious claim or foregoing the necessities of life.” Potnick v. Eastern State Hosp., 701 F.2d 243, 244 (2d Cir. 1983) (citing Adkins, 335 USS. at 339, 69 S. Ct. at 89). Id. (quotation omitted). Here, based upon the information provided in Plaintiffs Motion, this Court determines that Plaintiff has the ability to pre-pay the entire $405.00 filing fee required to maintain this action. In particular, Plaintiff's Motion reflects gross pay or wages in the amount of $5,442.30 bi-weekly, Dkt. No. 2 at pp. 1 & 4-5, which equates to approximately 3 Copies of unreported cases from Westlaw are attached to this opinion for Plaintiff's reference. 2. $141,499.80 in gross pay or wages annually. The application indicates that Plaintiff has $1,789.48 in cash or in a checking or savings account, and an “[e]mergency fund” containing $11,757.94. Jd. at p. 2. The application also reflects that Plaintiffs owns an automobile. /d. While the application lists considerable monthly expenses, as well as significant debts or financial obligations, the Court finds that Plaintiff's income level is such that she does not meet the requirements in order to proceed IFP. See, e.g., Zavala v. Cornell Univ., 2011 WL 13353099, at *2 (N.D.N.Y. Dec. 13, 2011) (denying IFP application that stated that plaintiff “earn[ed] $1,196 bi-monthly, which amount[ed] to approximately $28,704 per year,” had $428 in cash or in checking or savings accounts, and owned a home valued at $20,000, and “identifie[d] a spouse who [wa]s entirely dependent upon him for economic support, as well as a daughter and granddaughter whom he provide[d] $375 per month for economic support”); Eliacin v. Cnty. of Broome, New York, 2009 WL 10721277, at *2 (N.D.N.Y. June 11, 2009) (denying IFP application that indicated that plaintiff earned approximately $22,000 per year and denied that plaintiff had any cash, checking or savings accounts, or valuable property). The Court recommends that the District Court dismiss Plaintiff's Complaint if she does not submit the filing fee, or submit additional information indicating that she is unable to pay such fee, within thirty (30) days of the filing date of this Report- Recommendation and Order. -3-

CONCLUSION

For the reasons stated herein, it is hereby RECOMMENDED, that Plaintiff's Motion to Proceed Jn Forma Pauperis (Dkt. No. 2) be DENIED; and it is ORDERED, that the Clerk of the Court serve a copy of this Report- Recommendation and Order upon the parties to this action. Pursuant to 28 U.S.C. § 636(b)(1), the parties have fourteen (14)* days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court. FAILURE TO OBJECT TO THIS REPORT WITHIN FOURTEEN (14) DAYS WILL PRECLUDE APPELLATE REVIEW. Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993) (citing Small v. Sec'y of Health and Human Servs., 892 F.2d 15 (2d Cir. 1989)); see also 28 U.S.C. § 636(b)(1); FED. R. CIv. P. 72 & 6(a). Dated: April 10, 2026 Albany, New York fey gt US-Magistrate Judge 4 If you are proceeding pro se and are served with this Order by mail, three additional days will be added to the fourteen-day period, meaning that you have seventeen days from the date the order was mailed to you to serve and file objections. FED. R. CIV. P. 6(d). If the last day of that prescribed period falls on a Saturday, Sunday, or legal holiday, then the deadline is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday. FED. R. CW. P. 6(a)(1)(C). 4.
