

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Mark A. Kiley v. Frank J. Bisignano

Kiley · No. 26-cv-1-pp · Decided January 6, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin grants Mark A. Kiley leave to proceed without prepaying the filing fee in his action seeking review of the denial of Social Security disability benefits. The court finds that he cannot pay the filing fee and that his appeal is not frivolous because it may have a legal or factual basis.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	January 6, 2026
DOCKET	26-cv-1-pp
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed an action seeking judicial review of a final administrative decision denying disability insurance benefits and moved for leave to proceed without prepaying the filing fee. The district court granted the motion after finding that plaintiff could not pay the fee and that the action was not frivolous.
STANDARD OF REVIEW	For purposes of proceeding without prepaying the filing fee, the court determines whether the plaintiff can pay the fee and, if not, whether the action is frivolous under 28 U.S.C. §§ 1915(a) and 1915(e)(2)(B) (i). In reviewing a final Social Security decision, the district court must uphold the Commissioner's decision if the correct legal standards were used and the decision is supported by substantial evidence.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Mark A. Kiley v. Frank J. Bisignano

TOPICS

- civil procedure
- judicial review of agency action
- administrative law

PRACTICE AREAS

civil procedure

Social Security disability benefits

administrative law

QUESTIONS PRESENTED

1. Whether plaintiff demonstrated that he was unable to pay the \$405 filing fee.
2. Whether plaintiff's Social Security appeal was frivolous under 28 U.S.C. § 1915(e)(2)(B)(i).

HOLDINGS

1. Plaintiff demonstrated that he could not pay the \$405 filing fee, so he qualified to proceed without prepaying it.
2. The action was not frivolous because the complaint presented an arguable basis in law or fact for challenging the Commissioner's denial of disability benefits.

KEY QUOTATIONS

“A case is frivolous if there is no arguable basis for relief either in law or in fact.”

FACTUAL BACKGROUND

Kiley sought review of the denial of his claim for disability insurance benefits, alleging that he is disabled and that the Commissioner's findings were unsupported by substantial evidence and contrary to federal law and regulations. His affidavit showed that he was unemployed, unmarried, had no dependents, received \$1,845.47 in monthly income, and had approximately \$1,687 in monthly expenses. He owned a 2013 Dodge Dart worth about \$4,000 and had approximately \$300 in cash or bank accounts, while owning no home or other property of value.

PROCEDURAL HISTORY

Mark A. Kiley filed a complaint seeking review under the Social Security Act of the Commissioner's final decision denying his claim for disability insurance benefits. He filed a motion for leave to proceed without prepaying the filing fee. The district court evaluated his financial affidavit and screened the complaint for frivolousness under 28 U.S.C. § 1915, then granted the motion.

DISPOSITION

other

CASES CITED

- Denton v. Hernandez, 504 U.S. 25, 31 (1992)
- Nietzsche v. Williams, 490 U.S. 319, 325 (1989)
- Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)
- Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN MARK A. KILEY, Plaintiff, Case No. 26-cv-1-pp v. FRANK J. BISIGNANO, Defendant. ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED WITHOUT PREPAYING FILING FEE (DKT. NO. 3) The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying his claim for disability insurance benefits under the Social Security Act.

Dkt. No. 1. He also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 3. Federal law requires a person who files a complaint in federal court to pay \$405—a filing fee of \$350 (28 U.S.C. §1914(a)) and a \$55 administrative fee (Judicial Conference of the United States District Court Miscellaneous Fee Schedule Effective the December 1, 2023, #14).

To allow the plaintiff to proceed without prepaying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i). Based on the facts in the plaintiff's affidavit, the court concludes that he does not have the ability to pay the filing fee.

The plaintiff's affidavit indicates that he is not employed, he is not married and he has no dependents he is responsible for supporting. Dkt. No. 3 at 1. The plaintiff's stated monthly income is \$1,845.47 (\$1,472 Social Security, \$373.47 pension). Id. at 2.

The plaintiff lists monthly expenses of \$1,687 (\$750 rent, \$937 other household expenses). Id. at 2, 5. The plaintiff says that he owns a 2013 Dodge Dart, worth approximately \$4,000; he does not own his home or any other property of value; and he has approximately \$300 in cash or in a checking or savings account. Id. at 3-4.

The plaintiff has demonstrated that he cannot pay the \$405 fee. The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992) (quoting *Nietzke v. Williams*, 490 U.S. 319, 325 (1989); *Casteel v. Pieschek*, 3 F.3d 1050, 1056 (7th Cir.

1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See *Roddy v. Astrue*, 705 F.3d 631, 636 (7th Cir. 2013).

The plaintiff's complaint indicates that his claim for disability benefits was denied for lack of disability, that he is disabled and that the conclusions and findings of fact by the Commissioner when denying benefits are not supported by substantial evidence and are contrary to federal laws and regulations. Dkt. No. 1 at 1-2. At this early stage in the case, and based on the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the

plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court GRANTS the plaintiffs motion for leave to proceed without prepaying the filing fee. Dkt. No. 3. Dated in Milwaukee, Wisconsin this 6th day of January, 2026. BY THE COURT:
Chief United States District Judge