

**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

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