

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

SHARRON J. PARKER,)	
)	
Plaintiff,)	
)	
v.)	Case No. 08-1038-MLB
)	
BOARD OF PUBLIC UTILITIES OF)	
KANSAS CITY, KANSAS,)	
)	
Defendant.)	
_____)	

MEMORANDUM AND ORDER

This matter is before the court on plaintiff's motion to proceed in forma pauperis (Doc. 2). For the reasons set forth below, plaintiff's motion shall be DENIED.

Proceeding in forma pauperis in a civil case is a privilege, not a right. See White v. Colorado, 157 F.3d 1226, 1233 (10th Cir. 1998). Under 28 U.S.C. § 1915, a federal court *may* authorize the commencement, prosecution or defense of any suit, action, or proceeding without the prepayment of fees by a person who lacks financial means. 28 U.S.C. § 1915(a)(1). The decision whether to grant or deny in forma pauperis status under section 1915 lies within the sound discretion of the court. Cabrera v. Horgas, 1999 WL 241783, at *1 (10th Cir. 1999)(unpublished disposition). When considering such an application, the court must neither act arbitrarily nor deny the application on erroneous grounds. Buggs v. Riverside Hospital, No. 97-1088, 1997 WL 321289 (D. Kan. April 9, 1997). An affidavit

of financial status must be submitted with the application to proceed in forma pauperis. 28 U.S.C. § 1915(a)(1).

The court has reviewed plaintiff's affidavit of financial resources and concludes that plaintiff does not qualify to proceed in forma pauperis because she has the financial means to pay court fees. Specifically, plaintiff has \$15,075 "cash on hand" and owns a house valued at \$90,000 with approximately \$35,000 in equity. Although currently unemployed, plaintiff received \$19,110 in Social Security Disability payments the past 12 months as well as \$497 in interest from her money market account. Equally important, review of plaintiff's monthly financial expenditures reveals that she has sufficient financial resources to provide for the basic needs of shelter, food, and transportation.¹ Under the circumstances, plaintiff does not qualify to proceed in forma pauperis.

IT IS THEREFORE ORDERED that plaintiff's motion to proceed in forma pauperis (**Doc. 2**) is **DENIED**.

IT IS FURTHER ORDERED that plaintiff shall pay the clerk of the court the fees associated with the filing of this case by **March 3, 2008**. Failure to pay the required filing fee by the above date will result in an order dismissing this case without further notice.

¹

Although encumbered, plaintiff drives a 2005 Envoy. Ownership and operation of a late model SUV by a single person is not consistent with the financial circumstances normally associated with an individual proceeding in forma pauperis.

IT IS SO ORDERED.

Dated this 8th day of February 2008, at Wichita, Kansas.

s/ Monti Belot

Monti L. Belot
UNITED STATES DISTRICT JUDGE