

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

JASON S. TYLER,

Plaintiff,

vs.

Case No. 11-2241-SAC

MICHAEL J. ASTRUE,  
Commissioner of Social  
Security,

Defendant.

ORDER

On April 26, 2011, plaintiff filed an application for leave to proceed without prepayment of fees and an affidavit of financial status (Doc. 4). 28 U.S.C. § 1915(a)(1), states as follows:

...any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding...without prepayment of fees or security therefor, by a person who submits an affidavit...that the person is unable to pay such fees or give security therefor.

The filing fee in civil cases is presently \$350.00. 28 U.S.C. § 1914(a). It is this fee for which plaintiff seeks a

waiver.

Section 1915(a)(1) gives a district court discretion to grant permission for a movant to proceed *in forma pauperis* (IFP). While a trial court has wide discretion in denying an application to proceed IFP, in denying such applications a court may not act arbitrarily. Nor may it deny the application on erroneous grounds. United States v. Garcia, 164 Fed. Appx. 785, 786 n.1 (10<sup>th</sup> Cir. Jan. 26, 2006). To succeed on a motion to proceed IFP, the movant must show a financial inability to pay the required filing fees. Id; Lister v. Dept. of the Treasury, 408 F.3d 1309, 1312 (10<sup>th</sup> Cir. 2005).

The affidavit of financial status filed by the plaintiff is missing page 4; thus, plaintiff failed to provide information on total amount of cash on hand or in a bank account, or a list of any money he had received in the last 12 months. Without this information, the court is not in a position to determine if the plaintiff is unable to pay the filing fee. Plaintiff is therefore requested to file a supplemental affidavit which fully sets out plaintiff's financial status.

IT IS THEREFORE ORDERED that plaintiff shall either submit a supplemental affidavit, or pay the filing fee, no later than May 31, 2011.

Dated this 4<sup>th</sup> day of May, 2011, Topeka, Kansas.

s/ Sam A. Crow  
Sam A. Crow, U.S. District Senior Judge