

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

ERIC V. JAMES, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 13-1244-MLB-KGG
)	
CITY OF RUSSELL, KANSAS, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

ORDER ON IFP STATUS

Plaintiff Eric V. James has filed a federal court Complaint on behalf of himself and his minor children alleging certain violations of their civil rights resulting from his arrest on domestic battery charges. (Doc.1.) In conjunction with his Complaint, Plaintiff also filed a Motion to Proceed Without Prepayment of Fees (*IFP* Application, Doc. 3, sealed), with an accompanying Affidavit of Financial Status (Doc. 3-1, sealed). Having reviewed Plaintiff's motion, as well as his financial affidavit and Complaint, the Court is prepared to rule.

Under 28 U.S.C. § 1915(a), a federal court may authorize commencement of an action without prepayment of fees, costs, etc., by a person who lacks financial means. 28 U.S.C. § 1915(a). In so doing, the court considers the affidavit of

financial status included with the application. *See id.*

There is a liberal policy toward permitting proceedings *in forma pauperis* when necessary to ensure that the courts are available to all citizens, not just those who can afford to pay. *See generally, Yellen v. Cooper*, 828 F.2d 1471 (10th Cir. 1987). In construing the application and affidavit, courts generally seek to compare an applicant's monthly expenses to monthly income. *See Patillo v. N. Am. Van Lines, Inc.*, No. 02-2162, 2002 WL 1162684, at *1 (D.Kan. Apr. 15, 2002); *Webb v. Cessna Aircraft*, No. 00-2229, 2000 WL 1025575, at *1 (D.Kan. July 17, 2000) (denying motion because "Plaintiff is employed, with monthly income exceeding her monthly expenses by approximately \$600.00").

According to his financial affidavit, Plaintiff is 38-years-old and single. (Doc. 3-1, at 1.) He is currently unemployed, but receives monthly government benefits. (*Id.*, at 2, 4-5.) He owns a modest home (with a mortgage) and vehicle (which he owns outright). (*Id.*, at 3-4.) He lists a small amount of cash on hand. (*Id.*, at 4.)

Plaintiff lists standard monthly expenses, including rent, groceries, and utilities. (*Id.*, at 5.) He also owes a significant amount in student loans, on which he is currently not making payments. (*Id.*) He has not filed for bankruptcy. (*Id.*, at 6.)

Given the information provided, it appears that the government assistance Plaintiff receives barely covers his reasonable monthly expenses. As such, the Court finds that Plaintiff has established that his access to the Courts would otherwise be severely inhibited and that he is entitled to file this action without payment of fees and costs. Therefore, the Court **GRANTS** Plaintiff leave to proceed *in forma pauperis* and directs that this case be filed without payment of a filing fee.

IT IS THEREFORE ORDERED that Plaintiff's Application for Leave to File Action Without Payment of Fees, Costs or Security (Doc. 3, sealed) is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk's office shall proceed to issue summons in this case.

Dated at Wichita, Kansas, on this 15th day of July, 2013.

S/ KENNETH G. GALE
KENNETH G. GALE
United States Magistrate Judge