

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

DONNETTE MARIE HAZLETT,

Plaintiff,

vs.

**NANCY A. BERRYHILL,
Acting Commissioner of Social Security,**

Defendant.

Case No. 19-1099-DDC

MEMORANDUM AND ORDER

On April 26, 2019, plaintiff filed a Complaint against the Commissioner of the Social Security Administration. Doc. 1. Her Complaint seeks judicial review under 42 U.S.C. § 405(g) of a decision by the Commissioner of the Social Security Administration denying benefits. *Id.* at 1. Plaintiff also has moved for leave to file this action in forma pauperis. Docs. 5, 5-1. On May 9, 2019, plaintiff submitted a motion seeking leave to proceed in forma pauperis with an affidavit of financial status supporting this request. Docs. 4, 4-1. Then, on May 24, 2019, plaintiff filed a second motion with a more detailed affidavit. Docs. 5, 5-1.

Under 28 U.S.C. § 1915(a)(1), the court may authorize a person to commence an action without prepaying fees after submitting an affidavit demonstrating an inability to pay. The court has broad discretion to grant or deny permission to proceed in forma pauperis. *United States v. Garcia*, 164 F. App'x 785, 786 n.1 (10th Cir. 2006). But, the court cannot act arbitrarily or deny an application on erroneous grounds. *Id.* “[T]he movant must show a financial inability to pay the required filing fees.” *Id.* (quoting *Lister v. Dep’t of the Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005)).

After reviewing plaintiff's most recent financial affidavit (Doc. 5-1), the court finds that she has made a sufficient showing that she is unable to pay the required filing fees. The court thus grants plaintiff's request for leave to file this action without payment of fees, costs, or security under 28 U.S.C. § 1915(a)(1).

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiff's Motion to Proceed In Forma Pauperis (Doc. 5) is granted. The Clerk shall prepare a summons under Federal Rule of Civil Procedure 4 on plaintiff's behalf. The Clerk shall issue the summons to the United States Marshal or Deputy Marshal, whom the court appoints under Federal Rule of Civil Procedure 4(c)(3), to effect service.

IT IS FURTHER ORDERED THAT plaintiff's first Motion to Proceed in Forma Pauperis (Doc. 4) is denied as moot.

IT IS SO ORDERED.

Dated this 14th day of June, 2019, at Kansas City, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge