

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

GARLAND ELLENBURG, II,

Plaintiff,

v.

**ANDREW M. SAUL,
COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

Case No. 20-1168-DDC

MEMORANDUM AND ORDER

On June 24, 2020, plaintiff filed a Complaint against the Commissioner of the Social Security Administration. Doc. 1. His Complaint seeks judicial review under 42 U.S.C. § 405(g) of a decision of the Commissioner of the Social Security Administration denying benefits. *Id.* at 1–2. Plaintiff also has moved for leave to file this action in forma pauperis. Doc. 4. He has submitted an affidavit of financial status supporting his request. *Id.* at 2–7.

Under 28 U.S.C. § 1915(a)(1), the court may authorize a person to commence an action without prepayment of fees after submission of an affidavit demonstrating the inability to pay. The court has 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]o succeed on a motion to proceed [in forma pauperis], the 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 financial affidavit, the court finds plaintiff has made a sufficient showing that he is unable to pay the required filing fees. The court thus grants

plaintiff's request for leave to file this action with out prepayment of fees, costs, or security under 28 U.S.C. § 1915(a)(1).

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiff's Motion for Leave to Proceed In Forma Pauperis (Doc. 4) 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, who the court appoints under Federal Rule of Civil Procedure 4(c)(3), to effect service.

IT IS SO ORDERED.

Dated this 7th day of July, 2020, at Kansas City, Kansas.

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