

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

KEVIN LINDSAY,

Plaintiff,

v.

**ANDREW M. SAUL, Commissioner of the
Social Security Administration,**

Defendant.

Case No. 21-2212-DDC

MEMORANDUM AND ORDER

Before the court is plaintiff Kevin Lindsay’s Motion For Leave to File Complaint In Forma Pauperis, docketed May 7, 2021 (Doc. 3). Mr. Lindsay’s Complaint asks the court to review an unfavorable decision from the Commissioner of the Social Security Administration about his request for disability insurance benefits. Doc. 1 at 1 (Compl. ¶ 2) (“The Unfavorable Decision was not based on substantial evidence in the record[.]”). Mr. Lindsay’s motion includes an Affidavit of Financial Status supporting his request. *See generally* Doc. 3-1.

Under 28 U.S.C. § 1915(a)(1), the court is authorized to permit Mr. Lindsay to commence an action without prepayment of fees—*i.e.*, to proceed *in forma pauperis* (IFP)—if certain conditions are satisfied. Although the statute speaks of incarcerated individuals, it “applies to all persons applying for [*in forma pauperis*] status, and not just to prisoners.” *Lister v. Dep’t of Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005) (citations omitted).

Section 1915(a)(1) of Title 28 requires that plaintiff demonstrate his inability to afford the costs of litigation. 28 U.S.C. § 1915(a)(1). The court has “wide discretion” to grant motions to proceed *in forma pauperis*. *United States v. Garcia*, 164 F. App’x 785, 786 n.1 (10th Cir.

2006) (citation and internal quotation marks omitted). But, the court may not rule such requests arbitrarily or erroneously. *Id.* Thus, “to succeed on a motion to proceed [*in forma pauperis*],” a movant simply “must show a financial inability to pay the required filing fees, as well as the existence of a reasoned, nonfrivolous argument . . . in support of the issues raised in the action.” *Lister*, 408 F.3d at 1312.

In the court’s discretion, the court finds that Mr. Lindsay has made this requisite showing. His motion states he is “unable to pay the filing fee.” Doc. 3 at 1. And, the affidavit attached to his motion shows that his living expenses exceed his income. Doc. 3-1 at 3–6. Last, Mr. Lindsay’s Complaint alleges “a reasoned, nonfrivolous argument . . . in support of the issues raised in the action.” *Lister*, 408 F.3d at 1312. So, Mr. Lindsay has “show[n] a financial inability to pay the required filing fees” for facially legitimate allegations. *Id.*

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiff’s Motion For Leave to File Complaint In Forma Pauperis (Doc. 3) is granted. The Clerk is directed to prepare a summons on his behalf under Fed. R. Civ. P. 4. In addition, the Clerk shall issue the summons to the United States Marshal or Deputy Marshal, who the court appoints to effect service under Fed. R. Civ. P. 4(c)(3).

IT IS SO ORDERED.

Dated this 12th day of May, 2021, at Kansas City, Kansas.

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