

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

D.P.M.,¹

Plaintiff,

vs.

**KILOLO KIJAKAZI, Acting
Commissioner of the Social Security
Administration,**

Defendant.

Case No. 22-1211-DDC

MEMORANDUM AND ORDER

On September 20, 2022, plaintiff filed a Complaint against the Acting Commissioner of the Social Security Administration. Doc. 1. The 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. 3. 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 the person submits 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]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)).

¹ The court uses only plaintiff’s initials to preserve the privacy interests of Social Security claimants.

After reviewing plaintiff's financial affidavit, the court finds that plaintiff has made a sufficient showing that he is unable to pay the required filing fees. Plaintiff attests that he is unemployed and he has \$9.00 in cash on hand or in savings or checking accounts. Doc. 4 at 3, 5. Plaintiff receives \$250 a month in food stamps, but has no other sources of income. *Id.* at 5–6. His monthly expenses and other debts he owes exceed his monthly income. *Id.* at 6. Based on the information provided by plaintiff's affidavit, the court concludes that plaintiff 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 Application for Leave to File Action Without Payment of Fees, Costs, or Security (Doc. 3) is granted. The court orders the Clerk to 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 22nd day of September, 2022, at Kansas City, Kansas.

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