

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ANGIE SUE CLARK,

Plaintiff,

ORDER

v.

08-cv-763-bbc

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

This is an appeal of an adverse decision of the Commissioner of Social Security brought pursuant to 42 U.S.C. § 405(g). Plaintiff Angie Sue Clark has requested leave to proceed *in forma pauperis* and has supported her request with an affidavit of indigency.

To determine whether a plaintiff qualifies for indigent status, the court uses the following calculation: From plaintiff's annual gross income, the court subtracts \$3400 for each dependent, excluding plaintiff. If the balance is less than \$15,000, plaintiff may proceed without any prepayment of fees and costs; if the balance is greater than \$15,000 but less than \$28,000, plaintiff must prepay half the fees and costs; and if the balance is greater than \$28,000, plaintiff must prepay all fees and costs. Substantial assets or debts require individual consideration.

Plaintiff is married with no dependents. Her husband earns an average of \$2,837 per month, or \$34,044 annually. Although their monthly expenses exceed their income, they do not have any unusually large debts or obligations. Applying the formula above, plaintiff does not qualify for indigent status. Accordingly, if plaintiff wishes to proceed with this action, she

will have to pay the filing fee. If plaintiff pays the filing fee, then the clerk shall forward the summons and complaint to the marshal for service in accordance with Fed. R. Civ. P. 4.

ORDER

IT IS ORDERED that plaintiff's request for leave to proceed *in forma pauperis* in this action is DENIED because plaintiff does not qualify for indigent status. Plaintiff may have until January 15, 2009, in which to pay the fee for filing her lawsuit. If by that date, plaintiff fails to pay the fee, the clerk of court is directed to enter judgment dismissing this case without prejudice for plaintiff's failure to prosecute it. If plaintiff does pay the filing fee, then the clerk is directed to forward the summons and complaint to the marshal for service.

Entered this 5th day of January, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge