

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

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WALTON KELLOGG,

Plaintiff,

v.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

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ORDER

11-cv-372-bbc

Plaintiff Walton Kellogg has filed a civil suit pursuant to 42 U.S.C. § 405(g) for review of a final decision of the Commissioner of Social Security denying plaintiff's application for social security disability benefits. Plaintiff seeks to commence this lawsuit without prepayment of the filing fees and costs or providing security therefor, pursuant to 28 U.S.C. § 1915.

To determine whether a petitioner qualifies for indigent status, the court uses the following calculation: From petitioner and his spouse's annual gross income, the court subtracts \$3700 for each dependent, excluding the petitioner. If the balance is less than \$16,000, the petitioner may proceed without any prepayment of fees and costs; if the balance is greater than \$16,000 but less than \$32,000, the petitioner must prepay half the fees and costs. Substantial assets or debts require individual consideration.

From petitioner's affidavit of indigency, I find that he and his wife have a monthly income of \$2,645 or an annual income of \$31,740. Subtracting \$3700 for one dependent, his wife, their annual income is reduced to \$28,040. Petitioner does not have substantial debts or assets that require consideration. Therefore, petitioner he is able to prepay half the fees and costs of commencing this action in the amount of \$175.

IT IS ORDERED that Walton Kellogg's petition for leave to proceed *in forma pauperis* is GRANTED on the condition that he pay half the filing fee, \$175. Plaintiff must pay the filing fee no later than June 15, 2011. If he fails to do so, this action may be dismissed for his failure to prosecute it. Upon receipt of plaintiff's payment, the clerk of court shall issue summonses and forward them to plaintiff's counsel for service.

Entered this 25<sup>th</sup> day of May, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge