

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

JOE SEELEY,

Plaintiff,

ORDER

v.

07-C-0017-C

JO ANNE B. BARNHART, 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 Joe Seeley has requested leave to proceed in forma pauperis and has supported his request with an affidavit of indigency dated December 10, 2006.

The standard for determining whether plaintiff qualifies for indigent status is the following:

From plaintiff's annual gross income, the court subtracts \$2820 for each dependent excluding the plaintiff. If the balance is less than \$11,500, the plaintiff may proceed without any prepayment of fees and costs; if the balance is greater than \$11,500 but less than \$15,000, the plaintiff must prepay half the fees and costs; and if the balance is greater than \$15,000, the plaintiff must prepay all fees and costs. Substantial assets or debts require individual consideration.

Plaintiff does not have any dependents. He is divorced. He is employed part time earning \$7 an hour, although it is unclear how many hours plaintiff works per week. In the past year, plaintiff received \$47,000 in worker's compensation, although he reports that he has only \$61 in private checking or savings accounts. His monthly bills, including lot rent and taxes on his trailer home, total \$1,056. This amount does not include amounts for food and other necessities.

Although plaintiff's current annual income would qualify him for indigent status, his worker's compensation settlement constitutes a significant asset from which he could pay the filing fee. Of course, that assumes that plaintiff has money remaining from the settlement. From the small amount of money plaintiff has in his personal accounts and the fact that he has applied for leave to proceed *in forma pauperis*, it seems likely that he has no significant funds remaining from that settlement. Before making that finding, however, I am requesting plaintiff to answer the following questions:

1. Was the \$47,000 in worker's compensation a lump sum settlement?
2. Do you receive any worker's compensation payments on a monthly basis?
3. Do you expect to receive more worker's compensation payments in the future?
4. Is anything remaining of the \$47,000? If not, please state how the funds were spent.

Plaintiff should provide written answers to these questions to the court no later than January 25, 2007.

ORDER

IT IS ORDERED that the court is taking no action on plaintiff's application for leave to proceed *in forma pauperis* until he provides answers to the questions set forth above. Plaintiff's response is due on January 25, 2007.

Entered this 11th day of January, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge