

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

PETER L. DUNN,

Plaintiff,

ORDER

v.

07-C-621-C

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

Plaintiff Peter Dunn 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 his 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. Plaintiff has supported his 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 \$3,400 for each dependent, excluding the plaintiff. If the balance is less than \$15,000, the plaintiff may proceed without any prepayment of fees and costs; if the balance is greater than \$15,000 but less than \$28,000, the plaintiff must prepay half the fees and costs; and if the balance is greater than \$28,000, the plaintiff must prepay all fees and costs. Substantial assets or debts require individual consideration.

Plaintiff is married and his wife earns \$1,960 per month, or \$23,520 annually. Subtracting from that amount \$3,400 for plaintiff's dependent leaves a balance of \$20,120. Applying the formula above, plaintiff falls into the intermediate category where he must prepay half the fees and costs. I note that although plaintiff and his wife's monthly obligations appear to equal their monthly income, they do not have any unusually large debts or obligations. Accordingly, if he wishes to proceed with this action, plaintiff will have to pay half the filing fee, or \$175.

I will find plaintiff indigent for the purpose of serving his complaint. 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. However, plaintiff's income qualifies him for a reduction of the filing fee. Plaintiff is entitled to proceed upon payment of \$175. Further, plaintiff shall be considered indigent for the purposes of service.

Plaintiff may have until December 5, 2007, in which to pay the \$175 fee for filing his lawsuit. If, by December 5, 2007, 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 November, 2007.

BY THE COURT:
/s/
STEPHEN L. CROCKER
Magistrate Judge