

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

KELLIE LEHOUILIER,

Plaintiff,

v.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

ORDER

14-cv-52-bbc

On January 13, 2015 judgment was entered affirming the acting commissioner's decision to deny plaintiff Kellie Lehouillier's claim for social security disability benefits and supplemental security income. Plaintiff has filed a notice of appeal and a request for leave to proceed in forma pauperis on appeal. In determining whether plaintiff may appeal in forma pauperis under 28 U.S.C. § 1915, I must consider whether she is indigent and whether her appeal is taken in good faith. Fed. R. App. P. 24(a).

At the time plaintiff filed her case, she was found ineligible to proceed in forma pauperis and directed to pay the full filing fee. Now, she has submitted a new affidavit in support of her request to proceed in forma pauperis on appeal, which shows that as of December 4, 2014, her husband changed jobs, taking a substantial cut in pay, and that he and plaintiff have taken in two foster children.

In determining whether plaintiff has the means to pay the \$505 appeal filing fee, the court applies the following standard:

- From plaintiff's annual gross income, the court subtracts \$3700 for each dependent excluding the plaintiff.
- If the balance is less than \$16,000, the plaintiff may proceed without any prepayment of fees and costs.
- If the balance is greater than \$16,000 but less than \$32,000, the plaintiff must prepay half the fees and costs.
- If the balance is greater than \$32,000, the plaintiff must prepay all fees and costs.
- Substantial assets or debts require individual consideration.

In calculating plaintiff and her spouse's income and expenses for the last 12 months, I find that plaintiff and her spouse have an income of \$39,744. Subtracting \$11,100 to account for plaintiff's three dependents, plaintiff's adjusted annual income is \$28,644. Because her income falls in the \$16,000 to \$32,000 range, plaintiff is eligible to proceed in forma pauperis on appeal, provided that she pays half of the \$505 appeal filing fee, or \$252.50. Longbehn v. United States, 169 F.3d 1082 (7th Cir. 1999) (approving calculation of initial partial filing fee of appeal in non-prisoner cases).

I do not intend to certify that the appeal is not taken in good faith.

ORDER

IT IS ORDERED that plaintiff Kellie Lehouillier's request for leave to proceed in forma pauperis on appeal is GRANTED on the condition that, no later than April 10, 2015, she submit a check or money order made payable to the clerk of court in the amount of \$252.50. If, by April 10, 2015, plaintiff fails to pay the partial fee or explain her failure to do so, I will advise the court of appeals of plaintiff's noncompliance so that it may take whatever steps it deems appropriate with respect to this appeal.

Entered this 12th day of March, 2015.

BY THE COURT:

/s/
BARBARA B. CRABB
District Judge