

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

KELLY STONE and WILLIAM HOFFMAN,

Plaintiffs,

v.

HEATHER KIPLING MEHRA-PEDERSEN,
JAY LEWIS, KYLE PATTEN, JIMMY
HANSEN,

Defendants.

Case No. 2:18-cv-00467-BLW

**MEMORANDUM DECISION
AND ORDER**

INTRODUCTION

The Court has before it Plaintiffs’ application to proceed *in forma pauperis*. Dkt.

1. Rather than seeking to avoid paying the \$400 filing fee however, Plaintiffs simply ask that they be allowed to pay the filing fee in installments. Plaintiffs’ application is hereby GRANTED.

ANALYSIS

To proceed without payment of the \$400 filing fee, plaintiffs must submit an affidavit listing all assets possessed, including a statement that they are unable to pay the filing fee. *See* 28 U.S.C. § 1915(a)(1). The supporting affidavits must state the facts as to the affiant’s poverty “with some particularity, definiteness, and certainty.” *U.S. v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981). The litigant need not “be absolutely destitute to enjoy the benefits of the statute.” *Adkins v. E.I. du Pont De Nemours & Co.*,

335 U.S. 331, 339 (1948). District courts have significant discretion in setting the amount of payment so long as the exercise of discretion serves the “in forma pauperis statute’s goal[s] of granting equal access to the courts regardless of economic status ..., defraying some of the judicial costs of litigation[,] and screening out frivolous claims.”

Olivares v. Marshall, 59 F.3d 109, 111 (9th Cir. 1995).

Plaintiffs’ filing shows they have a low combined income, consisting entirely of disability payments in the amount of \$1097 and \$1339 to Ms. Stone and Mr. Hoffman, respectively. Dkt. 1. Ms. Stone and Mr. Hoffman do not have any assets of significant value. *Id.* In addition, Mr. Hoffman has significant medical expenses in relation to the size of his disability payments. *Id.* As such, it is appropriate to allow Ms. Stone and Mr. Hoffman to pay the filing fee according to a payment plan. *Id.*

Within twenty-one (21) days of the issuance of this Memorandum Decision and Order, Plaintiffs shall file a proposed payment plan reflecting their current financial status. *See In re Williamson*, 786 F.2d 1136 (8th Cir. 1986) (upholding the district court’s imposition of a payment plan). Additionally, because Plaintiffs will, via a payment plan, pay the full amount of the filing fee, the Court will forgo screening Plaintiffs’ complaint. *Cf. Olivares*, 59 F.3d at 111 (acknowledging that the screening procedure is employed in order to provide, in lieu of the filing fee, deterrence against frivolous lawsuits).

ORDER

In accordance with the Memorandum Decision set forth above,

1. Plaintiffs’ application to proceed *in forma pauperis* is GRANTED.



DATED: February 4, 2019

B. Lynn Winmill

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U.S. District Court Judge