

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE: CARLETTA M. DAVIS,

Petitioner,

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Misc. Action No. 06-00401 (RCL)

MEMORANDUM

The Court of Appeals for the District of Columbia Circuit has remanded this case “for a statement of reasons for the denial of appellant’s application to proceed IFP in the district court.” Order, App. No. 06-5252 (Oct. 31, 2006). Whether to permit or deny an application to proceed *in forma pauperis* is within the sound discretion of the Court. *See Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir.), *cert. denied*, 488 U.S. 941 (1988); *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir.), *cert. denied*, 375 U.S. 845 (1963). “[C]ourts will generally look to whether the person is employed, the person's annual salary, and any other property or assets the person may possess.” *Schneller v. Prospect Park Nursing and Rehab. Ctr.*, No. 06-545, 2006 WL 1030284, *1 (E.D. Pa. Apr. 18, 2006), *appeal dismissed*, 2006 WL 3038596 (3d Cir. Oct. 26, 2006). An individual need not “be absolutely destitute to enjoy the benefit of the [IFP] statute.” *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948). Rather, the granting of leave to proceed *in forma pauperis* is warranted if the affiant demonstrates that “because of [her] poverty [she cannot] pay or give security for the costs . . . and still be able to provide [herself] and dependents with the necessities of life.” *Id.* (internal quotation marks omitted).

The Court's denial of plaintiff's application was based on her receipt of \$1,280.00 per month in child support for one dependent and her ownership of an automobile valued at \$33,754. She has not shown that her payment of the civil case filing fee will deprive her or her daughter of the necessities of life.

The Clerk is directed to transmit this Memorandum forthwith to the appellate court.

____s/_____
Royce C. Lamberth
United States District Judge

Date: November 28, 2006