

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-10469  
Conference Calendar

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CHARLES ANTHONY MITCHELL,

Plaintiff-Appellant,

versus

SGT. LUGO ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 5:94-MC-28  
- - - - -  
(July 21, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:\*

Charles Anthony Mitchell's motion for leave to proceed in forma pauperis (IFP) on appeal is hereby GRANTED. Because no further briefing is required, we proceed to consider the merits of Mitchell's appeal. *Clark v. Williams*, 693 F.2d 381, 382 (5th Cir. 1982).

"Orders denying applications to proceed IFP are appealable as final decisions[.]" *Flowers v. Turbine Support Division*, 507 F.2d 1242, 1244 (5th Cir. 1975). "[A] trial court has wide

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

discretion in denying an application to proceed IFP under 28 U.S.C. § 1915." *Id.* The sole inquiry is whether the applicant is economically eligible for IFP status. *Watson v. Ault*, 525 F.2d 886, 891 (5th Cir. 1976). The applicant need not "be absolutely destitute to enjoy the benefit of the statute. . . . [A]n affidavit is sufficient which states that one cannot because of his poverty `pay or give security for the costs . . . and still be able to provide' himself and dependents `with the necessities of life.'" *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339, 69 S.Ct. 85, 93 L.Ed. 43 (1948). The IFP affidavit Mitchell has filed in this Court indicates that he has saved \$234 over 21 months in the county jail; receives \$5-\$10 per week from his mother; has a restitution debt of \$384.48, court-cost debt of \$84.50, and attorney-fee debt of \$200; and has expenses of \$17 per month for hygiene items, writing material, envelopes, and snacks.

Because Mitchell is in jail, he has no room, board, or personal maintenance expenses. Mitchell has an incoming cash-flow of \$5-\$10 per week and had deposited approximately \$100 into his trust-fund account in the 90-day period before he filed his district-court affidavit. The funds Mitchell receives from his mother are sufficient to cover Mitchell's listed monthly expenses. Additionally, Mitchell does not indicate that he pays monthly installments on his litigation-related debts. Mitchell should be able to pay the \$120 filing fee in the district court. See 28 U.S.C. § 1914(a). The district court's denial of leave to proceed IFP therefore was not an abuse of discretion.

No. 94-10469

-3-

AFFIRMED.