

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF HUMAN SERVICES

In the Matter of the Petition of Wayne Nicolaison for Permission to Proceed In Forma Pauperis	ORDER GRANTING PERMISSION TO PROCEED IN FORMA PAUPERIS
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Wayne Nicolaison (Petitioner) filed a Petition under Minn. Stat. § 14.381 on February 11, 2011, seeking an order directing the Department of Human Services (Department) to cease enforcement of an unadopted rule. At the same time, Petitioner submitted a notarized Affidavit in which he seeks to proceed *in forma pauperis* in this matter.

Petitioner Wayne Nicolaison appeared on his own behalf. Barbara Berg Windels, Assistant Attorney General, appeared on behalf of the Department of Human Services, which did not submit a response to the *in forma pauperis* petition.

Based upon the written submissions and the record in this matter, the Administrative Law Judge (ALJ) makes the following:

FINDINGS OF FACT

1. Petitioner's affidavit indicates that the Petitioner is indefinitely civilly committed as a Psychopathic Personality and has been confined since January 1992.
2. Petitioner's affidavit states his only source of income is welfare of \$89.00 per month for personal use such as for clothing, hygienic supplies, over the counter medications, writing supplies, postage, etc.

CONCLUSIONS OF LAW

1. Minn. Stat. § 563.01, subd. 3, permits a petitioner to commence an action without prepayment of fees, costs, and security for costs, upon the filing of an appropriate affidavit and a finding that that the action is not of a frivolous nature, and persons deemed to meet the requirements of the statute include, but are not limited to "a person who is receiving public assistance . . . or who has an annual income not greater than 125 percent of the poverty line" established under federal law.
2. Petitioner has demonstrated that he receives public assistance.

3. Petitioner's initiation of this proceeding does not appear to be frivolous in nature.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Administrative Law Judge makes the following:

ORDER

IT IS HEREBY ORDERED that the Petitioner shall be permitted to proceed *in forma pauperis* in this matter.

Dated: March 16, 2011

s/Manuel J. Cervantes

MANUEL J. CERVANTES
Administrative Law Judge