

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION at LONDON

CIVIL ACTION NO. 08-330-GWU

RAYMOND RICE,

PLAINTIFF,

VS.

MEMORANDUM OPINION AND ORDER

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,

DEFENDANT.

The defendant has filed a Motion to Dismiss, asserting that this action duplicates the plaintiff's appeal in London Civil Action No. 08-279-DLB. The defendant states that both actions seek judicial review of the same final administrative decision dated December 10, 2007. Docket Entry No. 10, p. 4. However, there is no information, currently before the court, which shows the date of the final administrative decision in Civil Action No. 08-330, apart from the assertion in the defendant's motion. The court notes that the Complaint in 08-279 states that the plaintiff's request for review was denied by the Appeals Council on July 17, 2008. London Civil Action No. 08-279-DLB, Docket Entry No. 2, p. 1. By contrast, the Complaint in the instant case cites an Appeals Council denial of review dated October 7, 2008. Docket Entry No. 2, p. 1.

Therefore, in order to give the plaintiff an opportunity to contest the defendant's motion,

IT IS HEREBY ORDERED that the plaintiff shall, within thirty (30) days, indicate whether he objects to the Motion to Dismiss.

This the 11th day of March, 2009.



Signed By:

G. Wix Unthank *G.W. Unthank*

United States Senior Judge