Hosea v. Astrue Doc. 11

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

| |) | |
|----------------------------------|---|-------------------------------------|
| JAMES HOSEA, | j | |
| Plaintiff, |) | |
| v. |) | CIVIL ACTION NO. 2:11-cv-768-MHT |
| |) | (WO) |
| MICHAEL J. ASTRUE, |) | |
| Commissioner of Social Security, |) | |
| • |) | |
| Defendant. |) | |
| |) | |
| | | |

OPINION

On September 15, 2011, plaintiff James Hosea filed a complaint seeking Social Security Disability Benefits pursuant to 42 U.S.C. § 405(g). On that same day, Hosea filed a motion for leave to proceed *in forma pauperis*, which this court granted on September 16. The court also issued a scheduling order in this matter requiring defendant Commissioner of Social Security to file an answer to the complaint within 90 days of service and Hosea to file a brief in support of her complaint within 40 days after the answer was filed. The commissioner filed an answer on December 16, making Hosea's brief due by January 25, 2012. Hosea failed to file her brief by this date. Thereafter, this court issued an order requiring Hosea to show cause, on or before February 24, 2012, why this lawsuit should not be dismissed for failure to prosecute. Hosea has failed to respond to this order.

The court therefore concludes that Hosea's failure to comply with the orders of

this court and her failure to prosecute properly this cause of action warrant dismissal

of this case, albeit without prejudice. See Link v. Wabash R.R., 370 U.S. 626, 630 (1962)

(interpreting Fed.R.Civ.P. 41(b) not to restrict the court's inherent authority to dismiss

sua sponte an action for lack of prosecution); World Thrust Films, Inc., v. International

Family Entertainment, Inc., 41 F.3d 1454, 1456-57 (11th Cir. 1995). An appropriate

judgment will be entered.

DONE, this the 15th day of March, 2012.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE