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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Dominic A Carracao,
10 Plaintiff,
11 v.
12 Commissioner of Social Security
13 Administration,
14 Defendant.

No. CV-16-02269-PHX-JAT

ORDER

15 Pending before this Court is Plaintiff's motion to reopen this case. Doc. 18. On
16 January 24, 2017, this Court issued the following Order:

17 By Local Rule, as quoted in this Court's scheduling Order (Doc. 4),
18 the opening brief in this case was due November 21, 2016. Plaintiff failed
to timely file an opening brief.

19 On November 23, 2016, this Court set a show cause hearing for
December 21, 2016, at 11:30 a.m. Plaintiff failed to appear at the hearing.

20 At the hearing, without Plaintiff present, the Court gave Plaintiff one
21 final opportunity to file his opening brief, and ordered that the opening
22 brief be filed by January 20, 2017. The Court stated "If Plaintiff does not
file the opening brief on or before this date, the case will be dismissed
without further notice." (Doc. 10).¹ Plaintiff failed to file the opening brief
by January 20, 2017.

23 Instead, on January 20, 2017, Plaintiff filed a request for an
24 extension of time seeking an open ended extension of time to file his
opening brief until he can seek legal assistance. This request is denied.
25 Plaintiff cannot file a case in district court as a placeholder for a case he
may wish to litigate in the future.

26 The Court will give Plaintiff one last opportunity to file his opening
27 brief. If Plaintiff does not file his opening brief within this deadline, the
Court will dismiss this case for failing to comply with a Court order under

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¹ The minutes from this hearing were mailed to Plaintiff.

1 Federal Rule of Civil Procedure 41(b).² In other words, the Court will not
2 entertain any further requests for more time. Plaintiff must file the opening
brief as set forth below or this case will be dismissed.

3 Based on the foregoing,

4 **IT IS ORDERED** that Plaintiff's motion for extension of time until
he can seek legal counsel (Doc. 12) is denied.

5 **IT IS FURTHER ORDERED** that Plaintiff shall file his opening
brief by February 13, 2017 or this case will be dismissed.

6 Doc. 13 (footnotes in original).

7 Plaintiff failed to file an opening brief by February 13, 2017, and, on February 16,
8 2017, this Court dismissed this case. Docs. 14 and 15. On February 21, 2017, Plaintiff
9 untimely filed an opening brief.

10 On April 5, 2017, Plaintiff filed a motion to reopen this case. Doc. 18. Plaintiff's
11 motion to reopen is one sentence. It cites no rules or law for reopening. The motion
12 states that this case should be reopened because Plaintiff's opening brief was timely. *Id.*
13 As recounted above, this statement is untrue. The opening brief was filed 8 days late
14 (and after judgment had already been entered), despite clear warnings (after multiple
15 extensions) that the opening brief was required to be filed by February 13, 2017.

16 Assuming Plaintiff's motion to reopen is pursuant to Federal Rule of Civil
17 Procedure 59(e), it is untimely because any such motion was due within 28 days of the
18 judgment. If Plaintiff's motion is pursuant to Federal Rule of Civil Procedure 60, for the
19 reasons stated above, Plaintiff has failed to show any grounds for relief. *See Jordon v.*
20 *Ryan*, CV 14-747-PHX-JAT; Doc. 29, at 1-4 (D. Ariz. July 8, 2016) (discussing the
21 standards for Fed.R.Civ.P. 59(e) and 60 motions). Accordingly,

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27 ² All of the *Henderson* factors (except preference for resolution of cases on their
28 merits) favor dismissal. *See Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir.1986).
The Court has attempted less drastic measures than dismissal, and Plaintiff has refused to
comply.

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IT IS ORDERED that Plaintiff's motion to reopen (Doc. 18) is denied.

Dated this 6th day of April, 2017.

