

1
2
3
4
5
6
7
8
9
10
11
12
13
14

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

David F. Thompson,)	No. CV 11-174-TUC-FRZ (CRP)
Plaintiff,)	ORDER
v.)	
Michael J. Astrue, Commissioner of Social Security,)	
Defendant.)	

15 Plaintiff David F. Thompson filed this action for judicial review of the administrative
16 decision denying his application for Social Security disability benefits.

17 This matter was referred to the United States Magistrate Judge for all pretrial
18 proceedings and report and recommendation in accordance with the provisions of 28 U.S.C. §
19 636(b)(1) and LRCiv 72.1 and LRCiv 72.2, Rules of Practice of the United States District Court
20 for the District of Arizona.

21 On January 13, 2012, Magistrate Judge Charles R. Pyle issued his Report and
22 Recommendation, recommending that the District Court, after its independent review of the
23 record herein, dismiss this action without prejudice, based on Plaintiff’s failure to timely
24 effectuate service on the Commissioner and the United States as required by Rule 4(i), Federal
25 Rules of Civil Procedure.

26 The Report and Recommendation sets forth the procedural history of this case and the
27 five-factor test applied in the Ninth Circuit in determining whether a dismissal is appropriate.
28 See *Valley Engineers, Inc. V. Electric Engineering Co.*, 158 F.3d 1051, 1057 (9th Cir. 1998).

1 The Report and Recommendation advised the parties that they may file written
2 objections within fourteen (14) days from the date of service of a copy of the Report and
3 Recommendation. *See* 28 U.S.C. § 636(b)(1) and Rules 72(b) of Federal Rules of Civil
4 Procedure.

5 No objections were filed.

6 The Court finds, after consideration of all matters presented and an independent review
7 of the record herein, that the findings of the Magistrate Judge as set forth in the Report and
8 Recommendation, shall be accepted and adopted as the findings of fact and conclusions of law
9 of this Court. Accordingly,

10 IT IS HEREBY ORDERED that Magistrate Judge Pyle's Report and Recommendation
11 (Doc. 16) is hereby ACCEPTED and ADOPTED as the findings of fact and conclusions of law
12 by this Court;

13 IT IS FURTHER ORDERED that this action is dismissed without prejudice;

14 IT IS FURTHER ORDERED that judgment be entered accordingly.

15

16 DATED this 4th day of April, 2012.

17

18

19



Frank R. Zapata
Senior United States District Judge

20

21

22

23

24

25

26

27

28