

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FORT SMITH DIVISION

FRANK DEWHART

PLAINTIFF

v.

Case No. 12-2290

MICHAEL J. ASTRUE, Commissioner  
Social Security Administration

DEFENDANT

**ORDER**

On January 17, 2013, the Defendant filed a Motion to Dismiss Plaintiff's Complaint for Failure to State a Claim. Specifically, Defendant contends that Plaintiff failed to file his Complaint within sixty days of receiving the Appeals Council's denial of review, as is required by section 205(g) of the Social Security Act, 42 U.S.C. § 405(g). It appears that the Appeals Council denied Plaintiff's request for review on September 18, 2012, but Plaintiff did not file his Complaint with this court until November 26, 2012. Accordingly, Plaintiff is hereby directed to file a response to Defendant's Motion to Dismiss on or before February 18, 2013.

IT IS SO ORDERED this 17th day of January 2013.

*/s/ J. Marschewski*

HON. JAMES R. MARSCHEWSKI  
CHIEF UNITED STATES MAGISTRATE JUDGE