

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

CHRISTINE ZAVORKA

PLAINTIFF

v.

Civil No. 09-3021

MICHAEL J. ASTRUE, Commissioner
Social Security Administration

DEFENDANT

ORDER

Currently before this court is the defendant's Motion to Dismiss (Doc. 5) and plaintiff's response to the Show Cause Order entered on July 29, 2009, directing plaintiff to show cause why her brief was not timely filed. (Doc. # 6). In response, the plaintiff's attorney promptly filed an appeal brief and stated in his response to the defendant's Motion to Dismiss that the failure to timely file the appeal brief was not intentional or willful nor in any way caused by the plaintiff. He also stated that the delayed filing of the plaintiff's brief resulted in no prejudice to the defendant's case. While no prejudice may have been caused to the defendant, counsel's failure to abide by the court's scheduling order interferes with the Court's ability to meet deadlines. As plaintiff's counsel has not done this in the past, the case will not be dismissed. However, should counsel fail to timely file future briefs without just cause, said cases will be dismissed with prejudice.

Accordingly, the undersigned hereby denies the defendant's motion to dismiss, and will leave the case open for resolution by the court. (Doc. # 5).

It is ordered this 28th day of August 2009.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE