

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

MARGO A. MIDDLETON

PLAINTIFF

v.

CIVIL NO. 12-3066

MICHAEL J. ASTRUE, Commissioner
Social Security Administration

DEFENDANT

ORDER

On June 5, 2012, Plaintiff filed a Writ of Mandamus requesting that the Court intervene and direct Defendant to comply with the basic notice requirement required by the procedural process in disability claims. (Doc. 1).

On September 24, 2012, Defendant filed a Motion to Dismiss Plaintiff's claim on the ground that it is barred by the time limitation specified in 42 U.S.C. § 405(g). (Doc. 6).

On October 9, 2012, Plaintiff filed a Response stating that Defendant failed to address that Plaintiff had filed a Writ of Mandamus. (Doc. 8).

On October 10, 2012, Defendant filed a Reply arguing that the Commissioner complied with the regulatory requirements set forth for disability claims. (Doc. 9).

Upon review of the Motion and supporting documents, the Court has a question regarding the Notice of denial sent by the Appeals Council to Plaintiff on December 1, 2011. In the Declaration of Donald V. Ortiz (Declaration), Mr. Ortiz indicates that the Notice was sent to Plaintiff at "555 E. 4th St Apt 11, Mountain Home, AR 72653. (Doc. 6, Ortiz Decl. Exh. 1, p.3).

However, the Notice dated December 1, 2011, attached to this Declaration indicates that the Notice was sent to Plaintiff at 105 S. Cardinal Street No. 15, Mountain Home, AR 72653. (Doc. 6, Ortiz Decl. Exh. 1, p.25). Furthermore, Defendant states that this Notice was faxed to Plaintiff's counsel. (Doc. 9, p. 3).

The Court hereby directs Defendant to discuss the above address discrepancy and the impact that this would have on the arguments made in the writ of mandamus on or before March 22, 2013.

IT IS SO ORDERED THIS 12th day of March 2013.

/s/ Erin L. Setser

HON. ERIN L. SETSER
UNITED STATES MAGISTRATE JUDGE