

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

ROBERT E. LANDINGHAM, IV

PLAINTIFF

v.

CIVIL NO. 09-5127

MICHAEL J. ASTRUE, Commissioner
Social Security Administration

DEFENDANT

MEMORANDUM OPINION

Presently before the court is the Defendant's motion to dismiss. (Doc. # 7). Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of a decision of the Commissioner of the Social Security Administration (Commissioner) finding that plaintiff was not entitled to a period of disability, disability benefits, or supplemental security income under Titles II and XVI of the Social Security Act. (Doc. 1-2). In their motion to dismiss, the Defendant states that the plaintiff has failed to file a brief as ordered by this Court on October 1, 2009. Further, the Defendants attempted to serve plaintiff with a copy of the transcript on October 1, 2009, but said delivery was rejected with a notation that the plaintiff had moved. No forwarding address was provided. While attempting to find a forwarding address for the plaintiff, the Court found an obituary dated August 8, 2009, for a Robert E. Landingham, IV, of Bentonville, Arkansas, with the same date of birth as the plaintiff's. Accordingly, the Defendant's motion is hereby granted and the clerk is ordered to dismiss plaintiff's Complaint.

IT IS SO ORDERED this 17th day of December 2009.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE