

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

TRAVIS BENTON EMMONS

PLAINTIFF

vs.

Civil No. 6:13-cv-06060

CAROLYN W. COLVIN

DEFENDANT

Commissioner, Social Security Administration

MEMORANDUM OPINION

Before the Court is Plaintiff's Complaint. ECF No. 1. The Parties have consented to the jurisdiction of a magistrate judge to conduct any and all proceedings in this case, including conducting the trial, ordering the entry of a final judgment, and conducting all post-judgment proceedings. ECF No. 5.¹ Pursuant to this authority, the Court issues this memorandum opinion and orders the entry of a final judgment in this matter.

Plaintiff filed his *pro se* Complaint on June 3, 2013. Thereafter, Defendant answered (ECF No. 12), and the transcript in this action was also filed. On August 27, 2013, the Court entered a social security scheduling order clearly directing Plaintiff to file an appeal brief by September 26, 2013. In the scheduling order, the Court noted that "**Plaintiff's failure to file a timely brief may result in dismissal for failure to prosecute.**" Despite this deadline and this warning, Plaintiff did not timely file an appeal brief.

Thereafter, on April 7, 2014, the Court entered a show cause order directing Plaintiff to show cause for his failure to timely file an appeal brief in this matter. ECF No. 13. This order was mailed to Plaintiff's address on file, and it has not been returned as undeliverable. In this order, the Court

¹ The docket numbers for this case are referenced by the designation "ECF No. ____" The transcript pages for this case are referenced by the designation "Tr."

directed Plaintiff to respond within ten (10) days. ECF. No. 13. Ten days has elapsed, and Plaintiff has not responded to this order and has still not filed an appeal brief in this matter.

Accordingly, consistent with the directive of this scheduling order, the Court **DISMISSES** Plaintiff's Complaint without prejudice for failure to comply with an order of the Court, failure to timely file his appeal brief, and failure to prosecute this action.

A judgment incorporating these findings will be entered pursuant to Federal Rules of Civil Procedure 52 and 58.

ENTERED this 25th day of April 2014.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE