

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

CHARLES MCELROY

PLAINTIFF

vs.

Civil No. 6:16-cv-06117

NANCY BERRYHILL

DEFENDANT

Commissioner, Social Security Administration

MEMORANDUM OPINION

Before the Court is Plaintiff's *pro se* 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. 3.¹ Pursuant to this authority, the Court issues this memorandum opinion and orders the entry of a final judgment in this matter.

Plaintiff filed his Complaint on November 14, 2016. Thereafter, Defendant answered (ECF No. 7), and the transcript in this action was also filed. ECF No. 8. On April 18, 2017, the Court entered a social security scheduling order requiring Plaintiff to file an appeal brief by May 18, 2017. In the scheduling order, the Court noted that "**Plaintiff's failure to file a timely brief may result in dismissal for failure to prosecute.**" On May 18, 2017, Plaintiff filed a response indicating he is unable to prepare a brief due to a severe medical impairment involving his vision. ECF No. 9.

Thereafter, on May 22, 2017, the Court, while mindful of Plaintiff's claimed difficulties, informed Plaintiff this matter needed to proceed and be briefed in a timely fashion, and informed Plaintiff he would need to make some arrangements that would allow his brief to be prepared. ECF

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."

No. 10. In this order, the Court allowed Plaintiff an extension to file an appeal brief until June 21, 2017. The Court again noted that “**Plaintiff’s failure to file a timely brief may result in dismissal for failure to prosecute.**” *Id.* Plaintiff has failed to comply with this Order.

Accordingly, consistent with the directive of the 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 22nd day of June 2017.

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