

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 5:20-cv-00227-JFW-MAA Date: April 26, 2021

Title Monica Mercado v. Commissioner of Social Security

Present: The Honorable: MARIA A. AUDERO, U.S. Magistrate Judge

James Muñoz
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Petitioner:
N/A

Attorneys Present for Respondent:
N/A

Proceedings (In Chambers): Order to Show Cause

On February 4, 2020, Plaintiff, identified in the Complaint as “Monica Mercado on behalf of [B.Z.M.¹],” initiated this action for review of a final decision of the Commissioner of Social Security denying an application for Supplemental Security Income (“SSI”). (ECF No. 1, at 1.) The Court observed that the named Plaintiff, Monica Mercado, is not the SSI claimant and therefore appears to lack statutory or constitutional standing to prosecute this case. (ECF No. 7, at 1.) Accordingly, the Court invited a First Amended Complaint naming B.Z.M., the SSI claimant, as the Plaintiff in this action. (ECF No. 7, at 2.) The deadline to file the First Amended Complaint has passed, and no First Amended Complaint has been filed.

Additionally, the Court noted that Ms. Mercado has not applied to be appointed as guardian ad litem for B.Z.M., her minor child. (*Id.* at 2.) The Court cautioned that a non-attorney parent or guardian generally cannot bring a lawsuit on behalf of a minor without retaining a lawyer. (*Id.* (citing *Johns v. County of San Diego*, 114 F.3d 874, 876-77 (9th Cir. 1997), and *Simon v. Hartford Life & Accident Ins. Co.*, 546 F.3d 661, 664 (9th Cir. 2008)).) To date, no request for appointment of a guardian ad litem has been filed.

Ms. Mercado and B.Z.M.’s failure to respond to the Court’s order suggests that Ms. Mercado and B.Z.M. cannot properly move forward with this action. On March 5, 2020, Ms. Mercado was ordered to show cause why the action should not be dismissed without prejudice (1) for her lack of constitutional and/or statutory standing to prosecute this action, and (2) for failure to prosecute and

¹ Although the minor child is named in the Complaint, the Court uses the child’s initials to protect his privacy.

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failure to comply with a court order pursuant to Federal Rule of Civil Procedure 41(b). Ms. Mercado was ordered submit a written response to the March 5, 2020 Order to Show Cause by no later than March 26, 2020. Ms. Mercado did not submit a written response to the March 5, 2020 Order to Show Cause as ordered by March 26, 2020.

On April 27, 2020, the matter was stayed pursuant to Order of the Chief Judge No. 20-074 and all dates were suspended until the stay was lifted. On April 15, 2021, the stay was lifted pursuant to Order of the Chief Judge No. 21-37.

On this basis, the Court **ORDERS** Ms. Mercado to show cause **by no later than May 17, 2021** why this action should not be dismissed without prejudice (1) for her lack of constitutional and/or statutory standing to prosecute this action, and (2) for failure to prosecute and failure to comply with a court order pursuant to Federal Rule of Civil Procedure 41(b).

It is so ordered.