

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

CIRILO GONZALEZ,

Plaintiff,

vs.

MICHAEL J. ASTRUE, Commissioner,

Defendant.

1:08-cv-00538 AWI GSA

ORDER TO SHOW CAUSE

On April 18, 2008, Plaintiff filed the present action in this Court. Plaintiff seeks review of the Commissioner's denial of his application for benefits. On April 21, 2008, the Court issued a Scheduling Order. The Scheduling Order states that within 120 days after service, Defendant shall file and serve a copy of the administrative record which shall be deemed an answer to the complaint. The Order also provides that within 30 days after service of the administrative record, Plaintiff shall serve on Defendant a letter brief outlining why remand is warranted which Defendant shall respond to within 35 days. Thereafter, if Defendant does not stipulate to remand, within 30 days of Defendant's response, Plaintiff must file and serve an opening brief.

On or about September 18, 2008, Defendant lodged the administrative record. Pursuant to the Scheduling Order, Plaintiff was required to file his opening brief in this Court on or before December 22, 2008. On December 22, 2008, the parties filed a stipulation to continue Plaintiff's

1 deadline for filing the opening brief on or before January 21, 2009. The court granted this request on
2 December 24, 2008. Plaintiff has failed to file his opening brief by January 21, 2009, pursuant to the
3 stipulation and order.

4 Therefore, Plaintiff is ordered to show cause why the action should not be dismissed for
5 failure to comply with the court's December 24, 2008, order. Plaintiff is ORDERED to file a written
6 response to this Order to Show Cause WITHIN twenty (20) days of the date of this Order. If
7 Plaintiff desires more time to file his brief, he should so state in his response.

8 Failure to respond to this Order to Show Cause within the time specified will result in
9 dismissal of this action.

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13 IT IS SO ORDERED.

14 **Dated: February 6, 2009**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE