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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EDWARD L. HALL,)	1:11-cv-00693-JLT
)	
Plaintiff,)	ORDER TO SHOW CAUSE WHY THE
)	ACTION SHOULD NOT BE DISMISSED OR
v.)	IN THE ALTERNATIVE TO FILE AN
)	AMENDED COMPLAINT
COMMISSIONER OF SOCIAL)	
SECURITY,)	
)	
Defendant.)	

Edward L. Hall (“Plaintiff”) is proceeding *pro se* with an action regarding Social Security benefits. Plaintiff initiated this action by filing his complaint on May 2, 2011. (Doc. 1). For the following reasons, Plaintiff is ORDERED to show cause why the action should not be dismissed, or in the alternative to file an amended complaint.

I. Procedural History

On June 29, 2012, the Court granted Plaintiff’s second amended application to proceed *in forma pauperis*, and dismissed Plaintiff’s complaint with leave to amend. (Doc. 12). The Court noted Plaintiff appeared to state a claim for Social Security benefits because the “Civil cover Sheet” named “Social Security” as the defendant in the action and Plaintiff stated a doctor stated he could not work. *Id.* at 3; *see also* Doc. 2. The Court found Plaintiff failed to state facts upon which the Court’s jurisdiction depends, including whether he sought review of a decision by the Commissioner of Social Security denying disability benefits. *Id.* at 3. As a result, the Court

1 dismissed Plaintiff's complaint with leave to amend to address the deficiencies of his complaint,
2 and include facts such that the Court may determine that it has jurisdiction over the matter.

3 Following Plaintiff's failure to comply with the Court's order, on July 29, 2011 the Court
4 issued an order to show cause why the matter should not be dismissed. (Doc. 13 at 1). Plaintiff
5 was ordered to respond within fourteen days of service, or by August 12, 2012. *Id.* at 2. Plaintiff
6 filed a timely response on August 14, 2011. (Doc. 14).

7 Plaintiff's August 11, 2011 response to the order to show cause explained his medical
8 issues and that he had assistance in filing the court documents. (Doc. 14). However, Plaintiff
9 failed to address the issue of the Court's jurisdiction as previously ordered.

10 **II. Jurisdiction**

11 The Court has limited jurisdiction to review decisions regarding Social Security benefits
12 and the denial of disability claims pursuant to 42 U.S.C. § 405(g), which provides in relevant
13 part:

14 Any individual, **after any final decision of the Commissioner made after a**
15 **hearing to which he was a party**, irrespective of the amount in controversy, may
16 obtain a review of such decision by a civil action commenced within sixty days after
17 the mailing to him of such decision or within such further time as the Commissioner
may allow. Such action shall be brought in the district court of the United States for
the judicial district in which the plaintiff resides, or has his principal place of
business . . .

18 *Id.* (emphasis added). Except as provided by statute, “[n]o findings of fact or decision of the
19 Commissioner shall be reviewed by any person, tribunal, or governmental agency.” 42 U.S.C. §
20 405(h). These regulations “operate as a statute of limitations setting the time period in which a
21 claimant may appeal a final decision of the Commissioner.” *Berrigan v. Astrue*, 2010 U.S. Dist.
22 LEXIS 115390, at * 4-5 (E.D. Cal. Oct. 29, 2010), *citing Bowen v. City of New York*, 476 U.S.
23 467, 479 (1986); *Matthews v. Eldridge*, 424 U.S. 319, 328 n. 9 (1976).

24 Previously, this Court previously stated, “The limitations to final decisions and to a sixty-
25 day filing period serve to compress the time for judicial review and to limit judicial review to the
26 original decision denying benefits, thereby forestalling repetitive or belated litigation of stale
27 eligibility claims.” *Anderson v. Astrue*, 2009 U.S. Dist. LEXIS 79726, at *8-9 (E.D. Cal. Oct. 7,
28 2008). Plaintiff has failed to allege facts upon which the Court's jurisdiction depends; he has not

1 alleged whether he received a decision of an administrative law judge or a review of the decision
2 by the Social Security Administration. Without these basic facts, the Court is unable to
3 determine whether it has jurisdiction over the matter.

4 **III. Failure to Obey the Court's Order**

5 The Local Rules, corresponding with Fed. R. Civ. P. 11, provide: "Failure of counsel or
6 of a party to comply with . . . any order of the Court may be grounds for the imposition by the
7 Court of any and all sanctions . . . within the inherent power of the Court." LR 110. "District
8 courts have inherent power to control their dockets," and in exercising that power, a court may
9 impose sanctions including dismissal of an action. *Thompson v. Housing Authority of Los*
10 *Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action with prejudice, based
11 on a party's failure to prosecute an action or failure to obey a court order, or failure to comply
12 with local rules. *See, e.g. Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal
13 for failure to comply with an order requiring amendment of complaint); *Malone v. U.S. Postal*
14 *Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court order);
15 *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute
16 and to comply with local rules).

17 In determining whether to dismiss an action for failure to obey a court order or failure to
18 comply with the Local Rules, the court must consider several factors, including: "(1) the public's
19 interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the
20 risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their
21 merits; and (5) the availability of less drastic sanctions." *Henderson*, 779 F.2d at 1423-24; *see*
22 *also Ferdik*, 963 F.2d at 1260-61; *Thomson*, 782 F.2d at 831.

23 In the case at hand, the public's interest in expeditiously resolving this litigation and the
24 Court's interest in managing the docket weigh in favor of dismissal. The risk of prejudice to the
25 defendant also weighs in favor of dismissal, since a presumption of injury arises from the
26 occurrence of unreasonable delay in prosecution of an action. *See Anderson v. Air West*, 542
27 F.2d 522, 524 (9th Cir. 1976). The policy favoring disposition of cases on their merits is
28 outweighed by the factors in favor of dismissal. Notably, the Court was unable to determine

1 whether it had jurisdiction over the matter due to Plaintiff's failure to file the notice or an
2 amended complaint. (Docs. 12-13).

3 **IV. Conclusion and Order**

4 For the foregoing reasons, Plaintiff is **ORDERED** to show cause within fourteen days of
5 the date of service of this Order why the action should not be dismissed for failure to follow the
6 Court's Order or, in the alternative, to file the amended complaint addressing the issue of the
7 Court's jurisdiction.

8
9 IT IS SO ORDERED.

10 Dated: August 11, 2011

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE