

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CARMEN SOCORRO DELGADILLO,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

1:12-cv-00703 GSA

**ORDER DISCHARGING ORDER TO
SHOW CAUSE**

(Docket Entry No. 8)

On May 1, 2012, Plaintiff Carmen Socorro Delgadillo filed a complaint with this Court alleging she had been wrongfully denied Social Security benefits. (Doc. 2.)

On May 2, 2012, the Court issued its Order Re Consent or Request for Reassignment. More specifically, the parties were directed to “complete and return the enclosed Consent to Assignment of Request for Reassignment” form within ninety (90) days. (Doc. 5.) On June 19, 2012, Defendant Michael J. Astrue, Commissioner of Social Security, timely filed his consent form. (*See* Doc. 7.)

Because Plaintiff failed to timely file the consent form as ordered, this Court issued an Order To Show Cause on August 14, 2012. More particularly, Plaintiff was ordered to file “a

1 written response” to that order within seven days, or, alternatively, Plaintiff was directed to file
2 the completed consent or decline form as previously directed. (*See* Doc. 8.)

3 Yet again, Plaintiff failed to comply as neither a written response nor a completed consent
4 or decline form were filed on or before August 21, 2012.

5 On August 22, 2012, at 11:32 a.m., chambers staff attempted to contact Plaintiff’s
6 counsel as a courtesy. A message was left with an assistant when staff was advised Mr. Lopez
7 was unavailable. Mr. Lopez’s assistant advised chambers staff that he would return the call the
8 following day. Mr. Lopez never made contact with chambers staff.

9 On August 24, 2012, Mr. Lopez filed the consent form. However, the form is dated
10 “5/14/12” and is accompanied by a “Return of Service” dated “5/18/12” and a “Proof of Service
11 of Summons” form directed to the Commissioner of Social Security. (*See* Doc. 9.) The “Return
12 of Service” form is a near duplicate of docket entry number 6 - Summons Return Executed - that
13 was filed May 31, 2012, however it was plainly signed and includes an “AMS (Attorney’s
14 Messenger Service)” stamp. Curiously, the form filed on August 24, 2012, appears to have been
15 erased or redacted in some fashion in the area designated for the signature and name of the
16 person executing the form.

17 It appears to the Court that Mr. Lopez is implying he provided the Court with this form
18 back in May 2012. Plainly that is not the case. The Court’s docket reflects *only* that the
19 summons and accompanying documents were provided to the Court for service upon the Social
20 Security Administration in May 2012. It is Plaintiff’s obligation to ensure the consent or decline
21 form is timely filed with this Court and appears on the docket. Further, Plaintiff’s counsel is
22 advised that in the future he shall follow the directions provided in this Court’s order, to wit: file
23 a written response, or file the consent or decline form, within seven days of the date of the Order.
24 Plaintiff’s counsel did neither. He did not file a written response, and the form was filed three
25 days beyond the deadline imposed.

Nevertheless, because the form has now been filed with the Court, as reflected in the docket entry dated August 24, 2012, the Order to Show Cause issued on August 14, 2012, is hereby DISCHARGED.¹

IT IS SO ORDERED.

Dated: August 27, 2012

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

¹ Plaintiff's counsel is directed to this Court's case number 12-cv-00893, *Rick M. Thomas v. Commissioner of Social Security*. The Court notes that counsel represents the Plaintiff in that action as well. The Scheduling Order and Consent to Assignment or Request for Reassignment form were issued on June 1, 2012, in that case. The Commissioner filed his consent form on June 11, 2012. Plaintiff has yet to file the requested form; it is due to be filed no later than September 1, 2012. The Court expects counsel to timely comply.