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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 MARIA GARCIA,

12 Plaintiff,

13 v.

14 SOCIAL SECURITY ADMINISTRATION,

15 Defendant.  
16

Case No. 1:14-cv-00599-AWI-SAB

ORDER DISCHARGING ORDER TO  
SHOW CAUSE AND REQUIRING  
PLAINTIFF TO FILE OPENING BRIEF BY  
MAY 8, 2015

(ECF No. 16)

17 Plaintiff Maria Garcia, proceeding pro se and in forma pauperis, filed this action  
18 challenging the denial of Social Security benefits on April 24, 2014. On August 20, 2014, an  
19 informal order for pro se litigants was issued by the Court informing Plaintiff of the requirements  
20 to prosecute her action. The administrative record in this action was filed on December 1, 2014.  
21 Plaintiff's opening brief in this action was due ninety five days after the administrative record  
22 was filed. Plaintiff did not file a timely opening brief; and on March 11, 2015, an order issued  
23 requiring Plaintiff to show cause why this action should not be dismissed for failure to prosecute.  
24 On April 1, 2015, Plaintiff filed an untimely response to the order to show cause.

25 In the informational order, Plaintiff was advised that she must comply with the Federal  
26 Rules of Civil Procedure and the Local Rules of the United States District Court, Eastern District of  
27 California (hereafter "Local Rule" or "L.R."). (ECF No. 11 at 7.) Further, Plaintiff was advised of  
28 the requirements of her opening brief and that the failure to timely file an opening brief would

1 result in the dismissal of this action. (Id. at 6.)

2 A document is filed when it is delivered into the custody of the Clerk and accepted for  
3 inclusion into the official record. L.R. 101. Plaintiff was ordered to file a response to the order to  
4 show cause within fourteen days of March 11, 2015. The Federal Rules provide that when service is  
5 made by mail, the party receives an additional three days to the period. Fed. R. Civ. P. 6(d).  
6 Plaintiff's response was filed on April 1, 2015, twenty one days after the order was served. While  
7 Plaintiff's response was untimely, the Court shall consider it in this instance since she is proceeding  
8 pro se. However, Plaintiff is admonished that she must comply with the Rules and the Court is  
9 not inclined to be lenient for further failures to comply.

10 Plaintiff states that it is taking her more time than she thought would be necessary to file  
11 her opening brief. Local Rule 144 provides that requests for extension of time must be sought as  
12 soon as the need for the extension becomes apparent. L.R. 144(d). Further, requests for  
13 extension of time must be brought prior to the required filing date of the document. Id. Plaintiff  
14 is advised that any future request for an extension of time must be filed prior to the due date,  
15 state the amount of time requested, and show good cause for the request. Requests for an  
16 extension of time that do not demonstrate good cause will be denied.

17 Finally, in her response Plaintiff states that it is taking longer than she expected to obtain  
18 medical records. In reviewing the denial of an application for Social Security benefits, this court  
19 "reviews the Commissioner's final decision for substantial evidence, and the Commissioner's  
20 decision will be disturbed only if it is not supported by substantial evidence or is based on legal  
21 error." Hill v. Astrue, 698 F.3d 1153, 1158 (9th Cir. 2012). In making this review, the Court  
22 considers the closed record, which means that generally neither party may put additional  
23 evidence before the District Court. Mathews v. Weber, 423 U.S. 261, 271 (1976).

24 This Court may only consider new evidence where it is material to the disability  
25 determination and Plaintiff has shown good cause for failing to present the evidence to the  
26 Administrative Law Judge earlier. Mayes v. Massanari, 276 F.3d 453, 462 (2001). Evidence is  
27 material where it bears directly and substantially on the matter in dispute. Id. To demonstrate  
28 good cause a claimant must demonstrate that the new evidence was not available earlier. Id. at

1 463. "A claimant does not meet the good cause requirement by merely obtaining a more  
2 favorable report once his or her claim has been denied." Id.

3 Based on the foregoing, IT IS HEREBY ORDERED that:

- 4 1. The order to show cause, filed March 11, 2015 is DISCHARGED;
- 5 2. Plaintiff's opening brief shall be filed on or before May 8, 2015; and
- 6 3. The failure to file an opening brief in compliance with this order will result in a  
7 recommendation that this action be dismissed.

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9 IT IS SO ORDERED.

10 Dated: April 6, 2015

  
UNITED STATES MAGISTRATE JUDGE