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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

SCOTT RANKIN,  
  
                    Plaintiff,  
  
          v.  
  
COMMISSIONER OF SOCIAL SECURITY,  
  
                    Defendant.

Case No. 1:14-cv-854-BAM  
  
ORDER DISCHARGING ORDER TO  
SHOW CAUSE  
(Doc. 16)  
  
ORDER DIRECTING DEFENDANT TO  
FILE PROOF OF SERVICE OF  
ADMINISTRATIVE RECORD WITHIN  
FIVE (5) DAYS  
  
ORDER GRANTING PLAINTIFF 60-DAY  
EXTENSION OF TIME TO FILE AND  
SERVE HIS OPENING BRIEF

Plaintiff Scott Rankin (“Plaintiff”), proceeding pro se and in forma pauperis, initiated this action on June 5, 2014, seeking review of the Commissioner’s denial of his social security benefits. (Doc. 1).

On June 4, 2015, following service of the complaint, the Court issued a Scheduling Order. The order required Plaintiff to prosecute this action by seeking voluntary remand or filing a dispositive motion within 95 days from service of the administrative record. (Doc. 14). Defendant filed the administrative record in this action on July 24, 2015. (Doc. 15). However, Plaintiff did not file a timely opening brief. As a result, on April 7, 2016, this Court ordered Plaintiff to show cause why this action should not be dismissed for Plaintiff’s failure to comply

1 with the Court's scheduling order and Plaintiff's failure to prosecute this action. (Doc. 16).

2 On April 15, 2016, Plaintiff filed a written response to the Court's order to show cause.  
3 In his response, Plaintiff declares under penalty of perjury that until recently he was represented  
4 by counsel who has withdrawn. (Doc. 17 at ¶ 2). Plaintiff states that he was unaware that an  
5 opening brief was overdue and not timely filed. Plaintiff also declares that because his attorney  
6 withdrew from representation, he "did not personally receive notification from the Court." (*Id.*)  
7 Plaintiff indicates that he has been diligently attempting to locate new counsel, but it has been  
8 extremely difficult because of the specialized nature of this action and his remote residence in  
9 Coarsegold, California. (*Id.* at ¶ 3). Plaintiff therefore requests a 120-day extension of time to  
10 obtain suitable counsel. (*Id.* at ¶ 5).

11 The Court finds Plaintiff's response disingenuous at best. From the inception of this  
12 action, Plaintiff has been proceeding pro se before the Court and has not been represented by  
13 counsel. Further, all Court orders, including the scheduling order issued on June 4, 2015, have  
14 been served on Plaintiff by mail at his address in Oakhurst, California. Moreover, Plaintiff's  
15 assertion that he requires additional time to secure legal counsel is unpersuasive. This action has  
16 been pending since June 2014. Taking into account the difficulties, if any, stemming from the  
17 specialized nature of this action and Plaintiff's geographic location, Plaintiff has had nearly two  
18 years to retain counsel, which is more than ample time. For these reasons, the Court will not  
19 grant Plaintiff's request for a 120-day extension of time to obtain counsel.

20 Despite the foregoing determination, and because Plaintiff is proceeding pro se, the Court  
21 will discharge the order to show cause and grant Plaintiff a 60-day extension of time to file his  
22 opening brief in this action. To ensure that Plaintiff has received the pertinent records, the Court  
23 will require Defendant to file proof of service of the administrative record.

24 Accordingly, it is HEREBY ORDERED as follows:

- 25 1. The Order to Show Cause issued on April 7, 2016, is DISCHARGED;
- 26 2. Within **five (5) days** of the date of this order, Defendant shall file a proof of service  
27 of the Administrative Record on Plaintiff at his address of record;
- 28 3. Within **sixty (60) days** following service of this order, Plaintiff shall serve and file an

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Opening Brief with the Court and on Defendant. Defendant’s responsive brief shall be filed with the Court and served on Plaintiff within thirty (30) days after service of the Opening Brief. Plaintiff’s reply brief, if any, shall be filed with the Court and served on Defendant within fifteen (15) days after service of Defendant’s responsive brief; and

- 4. **Plaintiff is forewarned that his failure to file an Opening Brief in compliance with this Order will result in dismissal of this action for lack of prosecution and failure to comply with court rules and orders.** See Local Rule 110.

IT IS SO ORDERED.

Dated: April 20, 2016

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE