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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

STEVEN MARTIN CARDENAS,

Case No. 1:15-cv-01939-SKO

Plaintiff,

**ORDER THAT PLAINTIFF FILE A
WRITTEN STATEMENT SHOWING
CAUSE WHY CASE SHOULD NOT BE
DISMISSED OR THAT PLAINTIFF FILE
AN OPENING BRIEF**

v.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

(Doc. 15)

Defendant.

On December 29, 2015, Plaintiff, proceeding *in forma pauperis*, filed the present action in this Court. (Doc. 1.) Plaintiff seeks review of the Commissioner’s denial of his application for benefits. (Doc. 1.) On September 6, 2016, the Court entered the parties’ stipulated request to modify the Scheduling Order (Doc. 14) to require Plaintiff to file and serve his opening brief by no later than October 3, 2016 (Doc. 15).

On October 3, 2016, the same day as the deadline for filing Plaintiff’s opening brief, *see* Doc. 17 (Minute Order setting expedited briefing schedule), Plaintiff’s counsel filed a motion to withdraw as attorney of record, stating that she has been unable to contact Plaintiff about his case, making it unreasonably difficult for her to carry out her representation of Plaintiff effectively. (Doc. 16.) On November 23, 2016, the Court found that Plaintiff’s counsel failed to comply with California Rule of Professional Conduct 3-700(A)(2) and Eastern District of California Local Rule 182(d), and denied counsel’s motion to withdraw without prejudice to refile and curing the defects

1 identified therein. (Doc. 21.) In its Order denying without prejudice the motion to withdraw, the
2 Court ordered: “Given that Plaintiff’s opening brief is now untimely by over thirty (30) days, any
3 amended motion to withdraw shall be filed expeditiously, and in any event **no later than twenty (20)**
4 **days of the date this order is filed.**” (*Id.* (emphasis in original).)

5 No amended motion to withdraw was filed by the deadline of December 13, 2016, *see*
6 Docket, and Plaintiff’s opening brief is now over 60 days untimely. Therefore, Plaintiff is ordered
7 to show cause, if any, why the action should not be dismissed for failure to comply with the
8 Court’s September 6, 2016, Order Modifying the Briefing Schedule. (Doc. 15). Alternatively,
9 Plaintiff may file an opening brief.

10 Accordingly, it is HEREBY ORDERED that:

- 11 1. By no later than **December 30, 2016**, Plaintiff shall **either**
 - 12 a. file a written response to this Order to Show Cause; **or**
 - 13 b. file an opening brief.
- 14 2. Failure to respond to this Order to Show Cause will result in dismissal of this
15 action.

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17 IT IS SO ORDERED.

18 Dated: **December 16, 2016**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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