

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KENNETH JOHN KLUTHE,	Case No.: 1:16-cv-00742 - JLT
Plaintiff, v. NANCY A. BERRYHILL ¹ , Acting Commissioner of Social Security, Defendant.	ORDER TO SHOW CAUSE WHY THE ACTION SHOULD NOT BE DISMISSED FOR PLAINTIFF'S FAILURE TO PROSECUTE AND FAILURE TO COMPLY WITH THE COURT'S ORDER

Kenneth John Kluthe initiated this action by filing a complaint on May 27, 2017, seeking judicial review of the decision to denying his application for Social Security benefits. (Doc. 1) On July 14, 2017, the Court granted Plaintiff's request for an extension of time to file his opening brief, and directed Plaintiff to file his brief no later than August 30, 2017. (Docs. 17, 18) However, Plaintiff failed to file an opening brief, and has not requested a further extension of time.

The Local Rules, corresponding with Fed. R. Civ. P. 11, provide: "Failure of counsel or of a party to comply with . . . any order of the Court may be grounds for the imposition by the Court of any and all sanctions . . . within the inherent power of the Court." Local Rule 110. "District courts have inherent power to control their dockets," and in exercising that power, a court may impose sanctions

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, the Court substitutes Nancy A. Berryhill for her predecessor, Carolyn W. Colvin, as the defendant.

including dismissal of an action. Thompson v. Housing Authority of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action with prejudice, based on a party's failure to prosecute an action or failure to obey a court order, or failure to comply with local rules. See, e.g. Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and to comply with local rules). Accordingly, Plaintiff is **ORDERED** to show cause within fourteen days of the date of service of this Order why the action should not be dismissed for his failure to prosecute or to follow the Court's Order, or in the alternative to file an opening brief. **If Plaintiff fails to comply with the** deadline as ordered, the Court will find that Plaintiff has abandoned the action, and dismiss the matter. IT IS SO ORDERED. /s/ Jennifer L. Thurston Dated: **September 1, 2017** UNITED STATES MAGISTRATE JUDGE