

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL ANDREW ELLIOTT,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:16-cv-01763-SAB

ORDER REQUIRING PLAINTIFF TO SHOW CAUSE WHY THIS ACTION SHOULD NOT BE DISMISSED FOR FAILURE TO PROSECUTE

SEVEN DAY DEADLINE

On November 19, 2016, Plaintiff filed the present action in this court seeking review of the Commissioner's denial of an application for benefits. On November 22, 2016, the Court issued a scheduling order. (ECF No. 4). The scheduling order states that within 95 days from the filing of the administrative record, Plaintiff shall file an opening brief. Defendant lodged the Social Security administrative record on April 18, 2017. (ECF No. 9.) The parties stipulated for an extension of time for Plaintiff to serve the letter brief on the Commissioner. (ECF Nos. 10, 11.) Accordingly, Plaintiff's opening brief was due thirty days after Defendant's service of the response to Plaintiff's opening brief. (ECF No. 5 at 3.) Defendant's serve the responsive brief on July 24, 2017. (ECF No. 13.) More than thirty days have passed and Plaintiff has not filed his opening brief.

Local Rule 110 provides that "[f]ailure of counsel or of a party to comply with these

Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions . . . within the inherent power of the Court." The Court has the inherent power to control its docket and may, in the exercise of that power, impose sanctions where appropriate, including dismissal of the action. <u>Bautista v. Los Angeles County</u>, 216 F.3d 837, 841 (9th Cir. 2000).

Accordingly, IT IS HEREBY ORDERED that Plaintiff shall file a written response to this order to show cause why this action should not be dismissed for failure to prosecute within seven (7) days of the date of service of this order. Failure to comply with this order to show cause shall result in this action being dismissed for failure to prosecute.

IT IS SO ORDERED.

Dated: **August 29, 2017**

UNITED STATES MAGISTRATE JUDGE

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