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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RODERICK TURK,
Plaintiff,
v.
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

No. 2:13-cv-1248-KJN

ORDER TO SHOW CAUSE

Plaintiff commenced this social security action on June 23, 2013. (ECF No. 1.) On July 23, 2013, the court issued a scheduling order requiring plaintiff to file a motion for summary judgment within 45 days from being served with the administrative record, unless plaintiff first submitted new evidence to the Commissioner along with a request for voluntary remand. (ECF No. 5 at 2.) The order cautioned the parties that failure to adhere to the scheduling deadlines may result in sanctions, including dismissal. (Id. at 3.) That same day, the court also issued an order requiring all parties to indicate, within 90 days, whether or not they consent to the jurisdiction of a United States magistrate judge pursuant to 28 U.S.C. § 636(c). (ECF No. 5-1.)

The administrative transcript in this case was ultimately lodged on November 13, 2013. (ECF No. 11.) The docket reveals that, although the applicable deadlines have long passed, plaintiff has yet to indicate whether or not he consents to the jurisdiction of a United States

1 magistrate judge pursuant to 28 U.S.C. § 636(c), and has yet to file a motion for summary
2 judgment. With respect to the latter, plaintiff has not notified the court that he had first submitted
3 new evidence to the Commissioner along with a request for voluntary remand.

4 The court observes that it previously sanctioned plaintiff's counsel in a minimal amount of
5 \$100.00 for similar conduct in Gier v. Commissioner of Social Security, 2:13-cv-0012-KJN, ECF
6 No. 16. In that case, plaintiff's counsel conceded that he had made some late filings and that, at
7 times, no extensions of time had been requested, but attributed the late filings to the large number
8 of cases that he had taken on. He also pointed out that all his cases "have been addressed within
9 the same general time-frame as a more compliant practitioner would achieve by utilizing such
10 requests." Id., ECF No. 14. At that time, the court noted:

11 Whether or not cases are generally addressed within a particular
12 time-frame, compliance with the court's orders and procedures are
13 not voluntary. In light of limited court resources, the court expects
14 counsel to abide by deadlines in order for the court to meet its goals
15 for resolution of social security cases, in which claimants have
16 often been waiting several years to obtain judicial review of their
17 claims.

18 Moreover, it is counsel's responsibility to manage his caseload.
19 Although the court recognizes that it may at times be difficult to
20 comply with multiple deadlines in difference cases at the same
21 time, the appropriate vehicle to address such difficulties, as
22 plaintiff's counsel acknowledges, is a timely request for extension
23 of time *prior to expiration of the deadline*. The court observes that,
24 in another social security case pending before the undersigned,
25 plaintiff's counsel also failed to file a motion for summary
26 judgment by the required deadline and filed a tardy *ex parte* motion
27 for extension of time to do so only after the order to show cause in
28 this case issued. See Vaupell v. Commissioner of Social Security,
2:13-cv-74-KJN.

22 Id., ECF No. 16 at 2. In Gier v. Commissioner of Social Security, the court found that:

23 sanctions in the amount of \$100 would be sufficient to deter future
24 non-compliance with the court's orders at this juncture.
25 Nevertheless, plaintiff's counsel is cautioned that future failure to
26 abide by the court's orders, Local Rules, and other applicable
27 procedural requirements will result in increased monetary sanctions
28 or other appropriate sanctions.

27 Id.

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