

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GEORGE KAPPES, III,  
  
Plaintiff,  
  
v.  
  
NANCY A. BERRYHILL, Acting  
Commissioner of Social Security,  
  
Defendant.

No. 2:18-cv-0002 JAM DB PS

ORDER

On September 26, 2018, the undersigned issued findings and recommendations recommending that this action be dismissed due to plaintiff’s failure to serve the defendant. (ECF No. 7.) Defendant, however, has since appeared and answered. (ECF No. 12.) Those findings and recommendations, therefore, will be vacated.

However, the Scheduling Order filed in this case on January 23, 2018, required plaintiff to file a motion for summary judgment and/or remand within 45 days from being served with a copy of the administrative record. (ECF No. 5 at 1-2.) Defendant served a copy of the record upon plaintiff on January 9, 2019. (ECF No. 14.) Nonetheless, plaintiff’s motion for summary judgment and/or remand is now long overdue.<sup>1</sup>

<sup>1</sup> Plaintiff has not notified the court of any request for voluntary remand submitted to the Office of the General Counsel.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly, IT IS HEREBY ORDERED that:

1. The September 26, 2018 findings and recommendation (ECF No. 7) are vacated; and
2. Plaintiff shall show good cause in writing, within fourteen (14) days after this order is filed, for failing to file a timely motion for summary judgment.<sup>2</sup>

DATED: May 24, 2019

/s/ DEBORAH BARNES  
UNITED STATES MAGISTRATE JUDGE

DLB:6  
DB\orders\orders.soc sec\kappes0002.osc.pmsj.ord

---

<sup>2</sup> Plaintiff may comply with this order by filing a motion for summary judgment.