

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 Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DWAIN BUTLER,

No. C 07-5992 JL

Plaintiff,

NOTICE

v.

COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION, ET AL.,

Defendants.

_____ /

TO PLAINTIFF:

This Court's Social Security Procedural Order provides that a plaintiff in a lawsuit for Social Security disability benefits must file a motion for summary judgment or remand within thirty days after service of Defendant's Answer. You were served with a copy of the Procedural Order on November 27, 2007. Defendant filed its Answer on March 10, 2008. When the Court contacted you, you advised that you had not received Defendant's Answer. Defendant then served you with a copy of its Answer on July 8, 2008. Your motion for summary judgment was therefore due to be filed with the Court and served on Defendant on or before August 8, 2008.

You have not filed your motion and you are not represented by counsel. Attorney Georgianna Russo has advised the Court that she only represents you for your new claim with the Social Security Administration, not for your prosecution of this lawsuit.

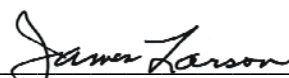
1 Plaintiff should be aware that although he is now representing himself in this action,
2 he is nevertheless obligated to follow the same rules as represented parties. *King v.*
3 *Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987) (finding that pro per litigants must follow the same
4 procedural rules as represented parties). Lack of awareness of the applicable rules and
5 procedures is no excuse for failure to comply with the same. *Swimmer v. I.R.S.*, 811 F.2d
6 1343, 1344 (9th Cir. 1987) (ignorance of court rules does not constitute excusable neglect,
7 even if the litigant appears pro se.) Plaintiff must keep the Court informed of any change of
8 address and must comply with the Court's orders in a timely fashion. *Collins v. Pitchess*,
9 641 F. 2d 740, 742 (9th Cir. 1981) ("Every plaintiff in federal court has a responsibility to
10 prosecute his action diligently."). Failure to do so may result in the dismissal of this action
11 for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b) without further
12 notice from the Court. *Ferdick v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992)."

13 Your failure to file a summary judgment motion as required by this Court's Social
14 Security Procedural Order places you in jeopardy of losing your case for failure to
15 prosecute.

16 The Court hereby grants you a 60-day extension of time to file your motion for
17 summary judgment, to January 29, 2009. The Court recommends that you continue to seek
18 legal representation, and that you do the best you can to file your motion yourself before
19 the deadline. If you fail to file by the deadline, the Court will be forced to dismiss your case.

20 IT IS SO ORDERED.

21 DATED: November 19, 2008

22
23 
24 _____
James Larson
Chief Magistrate Judge

25 G:\JLALL\CHAMBERS\CASES\CIVIL\07-5992\Sumary Judgment warning.wpd

26

27

28