

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PETER C. TALLEY,

No. C 08-4529 SI

Plaintiff,

**ORDER DENYING PLAINTIFF'S  
MOTION TO COMPEL; SETTING  
BRIEFING SCHEDULE**

v.

MICHAEL J. ASTRUE,

Defendant.

Plaintiff has filed a motion to compel production of the complete administrative transcript. (Docket No. 18). Plaintiff contends that the administrative transcript that has been filed at Docket No. 14 is incomplete because it does not include documents related to a previous SSI application and the Agency's termination of SSI benefits in July 2001 after the Agency learned plaintiff was incarcerated. Plaintiff asserts that these documents are relevant to "determine whether the Agency has failed to rebut Plaintiff's presumption of continuing disability." Motion at 6.

Defendant opposes the motion on numerous grounds. As an initial matter, defendant notes that plaintiff's complaint does not challenge the July 2001 termination of benefits, but rather the ALJ's November 30, 2007 denial of plaintiff's March 22, 2005 application for SSI benefits. The July 2001 termination of benefits was not raised or addressed in the November 30, 2007 decision, and plaintiff does not assert otherwise. Accordingly, the July 2001 termination of benefits is not properly presented for judicial review. See 20 C.F.R. § 416.1400(a); *Califano v. Sanders*, 420 U.S. 99, 102 (1977). In addition, the documents related to the July 2001 termination of benefits are not relevant to a "presumption of continuing disability" because plaintiff's March 2005 application came more than three years after the July 2001 termination. See *Stubbs-Danielson v. Astrue*, 539 F.3d 1169, 1172 (9th Cir.

