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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

NAOMI RODRIGUEZ,

Plaintiff,

vs.

MICHAEL J. ASTRUE, Commissioner of Social
Security,

Defendant.

Case No: C 09-2803 SBA

ORDER

[Docket Nos. 17]

Plaintiff Naomi Rodriguez ("Plaintiff") filed this action on June 23, 2009, seeking judicial review of an administrative decision by defendant, Michael J. Astrue, denying her Social Security benefits. (Docket No. 1.) That same day, on June 23, 2009, the Court issued a Procedural Order for Social Security Review Actions that set a briefing schedule to resolve the appeal. (Docket No. 3.) Pursuant to a request filed by Plaintiff, Magistrate Judge Zimmerman issued an order on October 9, 2009, extending the time for Plaintiff to file a motion for summary judgment to November 17, 2009. (Docket No. 12.) Plaintiff failed to file a motion for summary judgment. On December 7, 2009, Magistrate Judge Zimmerman issued an order for Plaintiff to show cause in writing, by December 16, 2009, why this case should not be dismissed for lack of prosecution. (Docket No. 13.) Plaintiff failed to respond to Magistrate Judge Zimmerman's order to show cause. On December 21, 2009, Plaintiff filed a stipulation - signed by Plaintiff's counsel on September 25, 2009, and counsel for Defendant on December 17, 2009 - requesting an extension of time up to December 17, 2009, to file her motion for summary judgment. (Docket No. 14.) That same day,

1 December 21, 2009, Magistrate Judge Zimmerman denied the stipulated request. (Docket No. 15.)

2 On January 7, 2010, Magistrate Judge Zimmerman dismissed the case for lack of prosecution.

3 (Docket No. 16.)

4 On January 27, 2010, upon review of the record, Magistrate Judge Zimmerman discovered
5 that Plaintiff had not consented to proceed before a magistrate judge, ordered the case to be
6 reassigned, and issued a Report and Recommendation in which he recommended the case be
7 dismissed for lack of prosecution. (Docket No. 17.) On January 28, 2010, the case was assigned to
8 this Court. (Docket No. 19.)

10 On February 9, 2010, Plaintiff's counsel filed a Response to Magistrate Judge Zimmerman's
11 Report and Recommendation. In her Response, counsel states she did not receive e-mail notices
12 from the Court denying her stipulation, and that she did not consult the web-site (presumably the
13 Court's web-site). (Docket No. 20.) However, without explaining the discrepancy, she states she
14 did receive an e-mail notice of the dismissal of this case, which is when she became aware that her
15 request for an extension had not been granted.

17 Counsel's Response fails to explain her failure to file a motion for summary judgment by
18 December 17, 2009, the date she requested. Her Response evidences a total disregard for the
19 orders of the court. She presumed that her request had been approved and proceeded on that
20 assumption. Counsel is admonished that her future failure to comply with all orders and deadlines
21 of the Court will result in severe sanctions, including against counsel and up to dismissal of this
22 action. Further, unless and until counsel is advised that the Court has approved any request,
23 counsel should proceed according to the orders which have been issued.

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Accordingly,

IT IS HEREBY ORDERED THAT:

(1) Plaintiff is to file a consent or declination form to proceed before a magistrate judge as required by Civil Local Rule 73-1 by March 5, 2010.

(2) Plaintiff is to file a motion for summary judgment by March 16, 2010.

(3) Upon the filing of Plaintiff's motion for summary judgment, the parties shall adhere to the briefing schedule prescribed in the Procedural Order for Social Security Review Actions.

IT IS SO ORDERED.

Dated: March 3, 2010



SAUNDRA BROWN ARMSTRONG
United States District Judge