

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  
SOUTHERN DISTRICT OF CALIFORNIA

TERRY ANN NASH,

Plaintiff,

vs.

CAROLYN W. COLVIN, Acting  
Commissioner of Social Security,

Defendant.

CASE NO. 12cv2781 GPC (RBB)

**ORDER GRANTING PLAINTIFF'S  
MOTION TO AMEND ORDER  
GRANTING PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT PURSUANT TO FRCP  
60(a)**

(ECF NO. 22.)

This matter comes before the Court on Terry Ann Nash's ("Plaintiff") unopposed Motion to Amend Order Granting Plaintiff's Motion for Summary Judgment. (ECF No. 22, "Motion to Amend"). Plaintiff requests this Court to amend the Order Granting Plaintiff's Motion for Summary Judgment and Denying Defendant's Cross-Motion for Summary Judgment entered on March 25, 2014. (ECF No. 18, "March 25th Order"). As the error committed by the Court is a clerical oversight within the scope of Federal Rule of Civil Procedure 60(a), Plaintiff's motion is **GRANTED**.

**I. BACKGROUND**

On March 25, 2014, this Court issued an Order Granting Plaintiff's Motion for Summary Judgment and Denying Defendant's Cross-Motion for Summary Judgment by Adopting the Report and Recommendation ("Report") filed by United States Magistrate Judge Ruben B. Brooks ("Magistrate Judge"). (ECF No. 18.) The

1 Magistrate Judge’s Report was based on Plaintiff’s applications for disability insurance  
2 benefits and supplemental income under Titles II and XVI of the Social Security Act  
3 (“Act”). (ECF No. 17 at 2.) This Court fully considered Plaintiff’s applications under  
4 both Title II and Title XVI of the Act in adopting the Magistrate Judge’s Report in its  
5 entirety. (ECF No. 18 at 8.) Plaintiff now seeks an amendment of the March 25th  
6 Order to reflect Plaintiff’s application for both Supplemental Security Income (“SSI”)  
7 under Title XVI of the Act and Disability Insurance benefits under Title II of the Act  
8 as a clerical error or the Court pursuant to Federal Rule of Civil Procedure 60(a). (ECF  
9 No. 22 at 4.)

## 10 II. DISCUSSION

11 Rule 60(a) provides in relevant part:

12 The court may correct a clerical mistake or a mistake arising from  
13 oversight or omission whenever one is found in a judgment, order, or  
14 other part of the record. The court may do so on motion or on its own,  
15 with or without notice.

16 Fed. R. Civ. P. 60(a). “A district court judge may properly invoke Rule 60(a) to make  
17 a judgment reflect the actual intentions and necessary implications of the court’s  
18 decision.” Robi v. Five Platters, Inc., 918 F.2d 1439, 1445 (9th Cir. 1990) (citing  
19 Jones & Guerrero Co. v. Sealift Pacific, 650 F.2d 1072, 1074 (9th Cir.1981)).

20 The Court’s original intention in its March 25th Order was to grant Plaintiff’s  
21 Motion for Summary Judgment in the action commenced by Plaintiff to seek review  
22 of the denial of Plaintiff’s application for SSI under Title XVI and Disability Insurance  
23 benefits under Title II of the Act. Correcting the March 25th Order to reflect this  
24 intention is within the purview of Rule 60(a). See Garamendi v. Henin, 683 F.3d 1069,  
25 1079-81 (9th Cir. 2012) (concluding Rule 60(a) “allows a court to clarify a judgment  
26 in order to correct a failure to memorialize part of its decision, to reflect the necessary  
27 implications of the original order, to ensure that the court’s purpose is fully  
28 implemented, or to permit enforcement.” (internal quotations omitted)). Correcting the  
Court’s previous omission of “Disability Insurance benefits under Title II of the Act”  
in the March 25th Order is in no way an intention of the Court to change its mind

1 regarding its previous determination. See Blanton v. Anzalone, 813 F.2d 1574, 1577  
2 n.2 (9th Cir. 1987) (finding that “[t]he basic distinction between ‘clerical mistakes’ and  
3 mistakes that cannot be corrected pursuant to Rule 60(a) is that the former consist of  
4 ‘blunders in execution’ whereas the latter consist of instances where the court *changes*  
5 *its mind*, either because it made a legal or factual mistake in making its original  
6 determination, or because on second thought it has decided to exercise its discretion  
7 in a manner different from the way it was exercised in the original determination.”  
8 (emphasis in the original)). Indeed, the Court stated in the conclusion of the March  
9 25th Order that “[t]he findings and conclusions of the Magistrate Judge presented in  
10 the Report and Recommendation are ADOPTED in their entirety.” (ECF No. 18 at8.)  
11 The Court finds Plaintiff has correctly identified the only instance in the Court’s March  
12 25th Order in which Plaintiff’s application is misrepresented. Therefore, the Court  
13 **GRANTS** Plaintiff’s Motion to Amend under Rule 60(a) as it would memorialize the  
14 Court’s original intent.

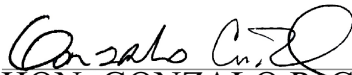
### 15 III. CONCLUSION

16 For the foregoing reasons, Plaintiff’s motion to amend pursuant to Rule 60(a) is  
17 **GRANTED**. The Court’s March 25th Order Granting Plaintiff’s Motion for Summary  
18 Judgment and Denying Defendant’s Cross-Motion for Summary Judgment is hereby  
19 deemed to apply to Plaintiff’s application for: (1) SSI under Title XVI of the Act; and  
20 (2) disability insurance benefits under Title II of the Act.

21 The motion hearing set to hear this matter on Friday, September 19, 2014 at 1:30  
22 p.m. is hereby VACATED.

23 **IT IS SO ORDERED.**

24 DATED: September 9, 2014

25   
26 HON. GONZALO P. CURIEL  
27 United States District Judge  
28