

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02993-RM-KLM

HOWARD M. WATTS, JR.,

Plaintiff,

v.

DOUGLAS SHULMAN, Commissioner IRS,
MICHAEL ASTRUE, Commissioner SSA,
CAROLYN SIMMONS, Associate Commissioner,
ANNETTE STREETER, Appeals Area Director, IRS,
J. TRUJILLO, Collections Agent, IRS, and
ELLEN DEMITRE, Tax Payer Advocate, IRS,

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiff's **Motion to Set Aside: Motion to Dismiss** [Docket No. 37; Filed June 13, 2013] (the "Motion"). On June 20, 2013, Defendants filed a Response. Plaintiff has not yet filed a Reply.¹ In the Motion, Plaintiff asks the Court to "set aside" the Motion to Dismiss [#30] filed by Defendants Colvin² and Simmons. *Motion* [#37] at 1. As a basis for the requested relief, Plaintiff appears to argue the merits of Defendants' Motion to Dismiss [#30]. In addition, Plaintiff cites to no legal authority for the relief he requests.

In their Response, Defendants Colvin and Simmons assume that the Motion was a response to their Motion to Dismiss [#30] and, therefore, title their pleading "Reply in Support of Defendants Colvin and Simmons' Motion to Dismiss." See *generally Resp.*

¹ Pursuant to D.C.COLO.LCivR 7.1C, the Court may rule on a pending motion at any time.

² Carolyn W. Colvin was not named in Plaintiff's Complaint, but the Motion to Dismiss argues that pursuant to Fed. R. Civ. P. 25(d), she should be substituted for Michael Astrue since she became the Acting Commissioner of Social Security on February 14, 2013. *Motion to Dismiss* [#30] at 1 n.1. As a result, for purposes of this Order, the Court will refer to the motion as being filed on behalf of Defendants Colvin and Simmons.

[#40].

If Plaintiff's intention was to file a response to the Motion to Dismiss [#30], he must file a separate document, not a motion, which clearly responds to the arguments articulated by Defendants Colvin and Simmons in the Motion to Dismiss.

Pursuant to D.C.COLO.LCivR 7.1C a response may be filed up to 21 days after a Motion is filed. Therefore, Plaintiff's deadline to file a response to the Motion to Dismiss [#30] was June 21, 2013. However, taking Plaintiff's *pro se* status into account, the Court will allow Plaintiff additional time in which to file a response to the Motion to Dismiss [#30] which complies with the Federal Rules of Civil Procedure, the Local Rules, the District Judge's Practice Standards, and the undersigned's Practice Standards. Accordingly,

IT IS HEREBY **ORDERED** that the Motion [#37] is **DENIED**.

IT IS FURTHER **ORDERED** that Plaintiff may file a response to Defendants Colvin and Simmons' Motion to Dismiss [#30] on or before July 12, 2013.

Dated: June 26, 2013