

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge John L. Kane

Civil Action No. **13-cv-2837-AP**

RONALD CLARENCE CALHOUN,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting Commissioner of Social Security,

Defendant.

ORDER

Kane, J.

This matter is before the court on Defendant's Motion to Dismiss [doc. #17], filed January 30, 2014. The Motion is **DENIED**. For the purposes of this case only, and under the circumstances presented, the Appeals Council's failure to act on plaintiff's appeal for nearly nine months is tantamount to a denial of his appeal and affirmance of the denial of his claim. If, in the interim, the Appeals Council decides to act and overturns the ALJ's decision, this appeal, of course, will be moot. The defendant shall file her answer along with the administrative record as soon as practicable, but no later than March 19, 2014.

Dated this 26th day of February, 2014.

BY THE COURT:

s/John L. Kane

John L. Kane, Senior Judge
United States District Court