

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

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WILLIAM PACYNA	:	3:10 CV 1865 (JBA)
	:	
V.	:	
	:	
MICHAEL J. ASTRUE,	:	DATE: APRIL 25, 2011
COMMISSIONER OF SOCIAL SECURITY :	:	
-----X	:	

WARNING TO PRO SE PLAINTIFF

On November 30, 2010, plaintiff filed his pro se Complaint, regarding defendant’s denial of plaintiff’s application for Social Security Benefits. (Dkt. #1).¹ U.S. District Judge Janet Bond Arterton referred this file to this Magistrate Judge three days later. (Dkt. #5). Defendant filed his Answer and Certified Transcript on March 3, 2011. (Dkt. #10). The next day, this Magistrate Judge filed a Scheduling Order (Dkt. #11), which ordered plaintiff to file his Motion to Reverse or Remand Decision of the Commissioner, with brief in support, on or before April 15, 2011, and defendant to file his Motion to Affirm Decision of the Commissioner, with brief in support, on or before May 13, 2011.

The pro se plaintiff has failed to file his motion and brief. Under well established case law in the Second Circuit, a lawsuit filed by a pro se plaintiff cannot be dismissed unless the plaintiff receives specific notice that further delay, not merely delay in general, could result in dismissal of his lawsuit, and “with respect to pro se litigants, the severe sanction of dismissal with prejudice may be generally imposed only if the litigation receives warning that noncompliance could result in dismissal.” Harvey v. Bennett, No. 98-CV-7814 (CPS), 2009

¹Plaintiff’s Motion for Leave to Proceed In Forma Pauperis, also filed on November 30, 2010 (Dkt. #2), was granted six days later. (Dkt. #6; see also Dkt. #5). In his Complaint, plaintiff alleges the following disabilities: anxiety-related disorders, bipolar temper outbursts, depression, compulsions, panic attacks, and marked difficulties in maintaining pace, commencing on December 31, 2007.

WL 2568551, at *3 (E.D.N.Y. Aug. 19, 2009)(citations omitted); see also Burke v. Miron, No. 3:07 CV 1181 (RNC), 2009 WL 952097, at *1-2 (D. Conn. Feb. 20, 2009)(with respect to non-compliance with discovery orders, “the sanction of dismissal with prejudice may be imposed against a pro se party only if the court warned the pro se party that noncompliance with court orders could result in dismissal of the action with prejudice.”)(citations omitted).

THEREFORE, THE PRO SE PLAINTIFF IS HEREBY WARNED THAT IF HE FAILS TO FILE HIS MOTION TO REVERSE OR REMAND DECISION OF THE COMMISSIONER, WITH BRIEF IN SUPPORT, ON OR BEFORE MAY 20, 2011, IN VIOLATION OF THIS ORDER AND THE PREVIOUS SCHEDULING ORDER, THIS FAILURE WILL LEAD TO THE ENTRY OF SANCTIONS, INCLUDING DISMISSAL OF THIS LAWSUIT.

Dated at New Haven, Connecticut, this 25th day of April, 2011.

/s/ Joan G. Margolis, USMJ
Joan Glazer Margolis
United States Magistrate Judge