

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

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HEATHER L. DAVIS	:	3:11 CV 875(CSH)
	:	
V.	:	
	:	
MICHAEL J. ASTRUE,	:	DATE: OCTOBER 26, 2011
COMMISSIONER OF SOCIAL SECURITY :	:	
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WARNING TO PRO SE PLAINTIFF

On May 27, 2011, plaintiff filed her pro se Complaint, regarding defendant’s denial of plaintiff’s application for Social Security Benefits. (Dkt. #1).¹ Senior U.S. District Judge Charles S. Haight, Jr. referred this file to this Magistrate Judge six days later, on June 2, 2011. (Dkt. #4). Defendant filed his Answer and Certified Transcript on August 17, 2011. (Dkt. #12). The next day, this Magistrate Judge filed a Scheduling Order (Dkt. #13), which ordered plaintiff to file her Motion to Reverse or Remand Decision of the Commissioner, with brief in support, on or before October 17, 2011, and defendant to file his Motion to Affirm Decision of the Commissioner, with brief in support, on or before December 19, 2011. (See also Dkt. #6).

The pro se plaintiff has failed to file her 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 or her lawsuit, and “with respect to pro se litigants, the severe sanction of dismissal with prejudice may be generally imposed only if the litigant receives warning that

¹Plaintiff’s Motion for Leave to Proceed In Forma Pauperis, also filed on May 27, 2011 (Dkt. #2), was granted six days later, on June 2, 2011. (Dkt. #5; see also Dkt. #4). In her Complaint, plaintiff alleges that she is entitled to receive disability benefits for a disability commencing on March 3, 2009, for panic attacks, anxiety, bipolar disorder, post-traumatic stress disorder, asthma and obesity.

noncompliance could result in dismissal.” Harvey v. Bennett, No. 98-CV-7814 (CPS), 2009 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 SHE FAILS TO FILE HER MOTION TO REVERSE OR REMAND DECISION OF THE COMMISSIONER, WITH BRIEF IN SUPPORT, ON OR BEFORE NOVEMBER 18, 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 26th day of October, 2011.

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