

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

DIANE ONOFRIO GRAHAM,)
)
Plaintiff,)
)
v.)
)
CAROLYN W. COLVIN,)
Acting Commissioner of the Social)
Security Administration,)
)
Defendant.)

Case No. CV614-102

ORDER

Several weeks ago the Court ordered Plaintiff Diane Graham to show cause why this social security benefits appeal should not be dismissed on abandonment grounds for her failure to serve defendant for almost an entire year.¹ Doc. 14. Graham’s counsel responded that his delay stemmed from “care and concern to not give offense to the Court by acting impatiently.”² Doc. 15 at 5.

¹ Graham filed her Amended Complaint on January 6, 2015 (doc. 10) and simultaneously requested that the Clerk issue three summonses that counsel would serve on defendant’s representatives. See docs. 10-1 to 10-4. The Clerk never returned the summonses and counsel never contacted the Clerk to inquire about the delay. Consequently, defendant remains unserved and this case sits idle.

² Counsel fears drawing the ire of Court staff (and thus possibly the Court too) by “pestering” the Clerk about the summonses. As background for why he never spoke

The Court accepts counsel's explanation for the delay. Particularly given the "strong preference for deciding cases on the merits rather than procedural technicalities," *State Farm Mut. Auto. Ins. Co. v. Epright*, 2015 WL 7450108 at *2 (M.D. Fla. Nov. 24, 2015), it will not recommend dismissal of Graham's Complaint.

Service of the Amended Complaint and issuance of the summonses, however, remain issues. To that end, the Court **DIRECTS** the Clerk to issue the summonses contained in Docs. 10-2, 10-3, and 10-4 to Graham's counsel who then has 30 days from the date he receives the summonses within which to serve defendant.

up, counsel details the idiosyncratic practices of other courts in which he's practiced. *See, e.g.*, doc. 15 at 3 ("[A] Texas judge forbids electronic filing, threatening sanctions upon counsel who fails to file by paper, as in the old days."). Although a reasonable explanation, the Court nevertheless notes that at least in this district, counsel should contact the Clerk's office long before a year passes if in the future a situation like this arises again. Doing so will not negatively impact counsel's standing in the Court's eyes. And by the way:

Documents should be filed, signed, and verified by electronic means to the extent and in the manner permitted or required by the Administrative Procedures for Filing, Signing and Verifying Pleadings and Papers by Electronic Means in Civil and Criminal Cases in the United States District Court for the Southern District of Georgia (available on the Court's website at "www.gas.uscourts.gov").

S.D. Ga. L.R. 5.5.

SO ORDERED, this 4th day of January, 2016.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA