

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

DAVID DINKINS

* CIVIL ACTION NO. 23-305

*

VERSUS

* SECTION: "A"(4)

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KILOLO KIJAKAZI, ACTING
COMMISSIONER OF SOCIAL
SECURITY

* JUDGE JAY C. ZAINEY

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* MAGISTRATE JUDGE KAREN WELLS

* ROBY

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ORDER

The Court, having considered the record, the applicable law, the Report and Recommendation of the United States Magistrate Judge (Rec. Doc. 12), and the petitioner’s objection to the Magistrate Judge’s Report and Recommendation, hereby remands the matter to the Commissioner for further proceedings.

In his objection, the petitioner, David Dinkins, argues that the ALJ failed to make a proper finding of fact as to whether Dinkins was informed that he had to file an SSI application by October 13, 2020, to preserve a protective filing date of July 13, 2020. He asserts that he never received written notice and that no such notice is in the record. He claims that these facts entitle him to a protective filing date of July 13, 2020.

The ALJ, in his Second Amended Decision, relying on communications with the SSA’s field office, determined that “the claimant did not file an SSI application on July 13, 2020,” and that “he was given until October 13, 2020, to file an SSI application with July 13, 2020, as the protective filing date.” (Rec. Doc. 9, at 23). However, the SSA has the obligation to make clearly defined deadlines. In its review of the administrative record, the Court has not seen any documents

evidencing that Dinkins was provided notice that he had until October 13, 2020, to file an SSI application with July 13, 2020, as his protective filing date.¹

Accordingly;

IT IS ORDERED that Petitioner's Objection is **GRANTED** insofar as the matter is remanded to the Commissioner for production of evidence that Dinkins was provided notice that he had until October 13, 2020, to file an SSI application with July 13, 2020, as the protective filing date.

November 9, 2023



JAY C. ZAINERY
UNITED STATES DISTRICT JUDGE

¹ The Court notes that the record of administrative proceedings exceeds 900 pages.