

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

TOMMY ARNELL RUSSELL,

Plaintiff,

v.

CIV 17-1272 RB/KBM

HONORABLE HEATHER WILSON,
Secretary, United States Air Force,
DEPARTMENT OF THE AIR FORCE,

Defendant.

SECOND ORDER TO SHOW CAUSE

Based upon Plaintiff's lack of activity in this case and his failure to comply with discovery obligations and the order requiring his appearance at a November 7, 2018 status conference, this Court entered an Order to Show Cause ("OSC"). The OSC required Plaintiff Tommy Russell, who is proceeding pro se, to file a response by November 21, 2018 "showing cause why this case should not be dismissed." *Doc. 33*. Plaintiff was also ordered to include in his response dates he is available for deposition in November and early December of this year. *Id.* at 2. Plaintiff was also cautioned that failure to respond to the OSC would result in my recommendation to the presiding judge for dismissal of this action without further notice. *Id.*

Instead, Plaintiff merely filed a "Certificate of Service of Plaintiffs [sic] Response to Defendants [sic] Initial Discovery Deficiencies" on November 21, 2018. *See Doc. 34*. Plaintiff provided no explanation for his failure to abide by the orders of the Court or to

timely meet his discovery obligations. Moreover, Plaintiff gave no indication of dates in November or December when he would be available to be deposed. Simply put, to the extent Plaintiff may have intended the filed Notice to constitute his response to the OSC, it is insufficient. Because Plaintiff is proceeding pro se, however, the Court will provide Plaintiff a final opportunity to explain why sanctions, including dismissal of his claims, should not be imposed.

IT IS HEREBY ORDERED that no later than December 12, 2018, Plaintiff shall file with this Court a response to this Second Order showing cause why this case should not be dismissed. Plaintiff shall provide dates he is available for deposition in December of this year. Plaintiff is also hereby notified that failure to fully respond to this Order will result in my recommendation to the presiding judge of dismissal without further notice.


UNITED STATES MAGISTRATE JUDGE