

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

AUGUST G.,

Plaintiff,

vs.

**5:20-CV-88
(TJM)**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

Plaintiff August G. filed this action pursuant to 42 U.S.C. § 405(g) to appeal the Defendant Commissioner of Social Security's denial of his claim for disability benefits. His attorney filed a brief in support of his appeal, and the Commissioner filed a brief in opposition. The Court treats such pleadings as motions for judgment on the pleadings. After the parties completed the briefing but before the undersigned Judge rendered a decision, Plaintiff informed his Court that the New York courts had suspended his counsel's license to practice law for one year. See dkt. # 22. The Chief Judge of this Court then suspended Plaintiff's Counsel from practice in this Court. See dkt. # 25.

The Fourth Judicial Department of the State of New York suspended Plaintiff's lawyer from practice. See <http://www.nycourts.gov/courts/ad4/Clerk/Decisions/2020/1223T1500/pdf/M-19-026.pdf>.

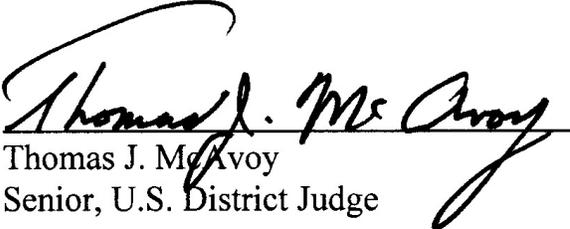
Among the charges against Plaintiff's counsel was a claim of neglect of client matters. Id. at 1. The conduct in question in that case occurred before the lawyer's work in this matter. The brief counsel filed in this case, however, indicates that counsel may not have provided much more diligent representation than counsel did in the other case. The brief is twenty-three pages long, but most of the brief consists of long quotations from the disability hearing and the Administrative Law Judge's decision. Counsel offers less than three pages of legal argument and very little analysis of the case.

Because the Plaintiff's attorney has recently been suspended for neglecting a client's affairs, the Court is concerned that the Plaintiff in this case may not have been provided the adequate representation he had been promised. Under these unique circumstances, the Court feels compelled to provide Plaintiff an opportunity to address issues his suspended counsel may have ignored.

Accordingly, the parties' motions for judgment on the pleadings are here DENIED without prejudice. See dkt. #s 15, 21. Plaintiff may substitute counsel and file a new motion for judgment on the pleadings—in the form of a brief—within sixty days of the date of this Order. Should Plaintiff file a renewed motion, the government shall respond within twenty-one days. No reply brief will be allowed. Failure by the Plaintiff to file a new brief within 60 days will cause the Court to reopen the motions for judgment on the pleadings and decide the case on the original filings.

IT IS SO ORDERED.

Dated:February 18, 2021


Thomas J. McAvoy
Senior, U.S. District Judge