

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

ANTHONY R. DYMAOND, SR.,

Plaintiff,

Case No.: 3:13-CV-117

vs.

COMMISSIONER OF  
SOCIAL SECURITY,

District Judge Timothy S. Black  
Magistrate Judge Michael J. Newman

Defendant.

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**ORDER**

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This is a Social Security disability benefits appeal filed *pro se*. Pursuant to Sixth Amended Magistrate Judges' General Order No. 11--a copy of which was previously mailed to Plaintiff, *see* doc. 10--Plaintiff's Statement of Errors was due on or before September 25, 2013. When Plaintiff did not timely file his Statement of Errors, the Court, acting *sua sponte* and in the interest of justice, afforded Plaintiff an additional fourteen days in which to file that document. Doc. 9. In that Order, Plaintiff was directed to show cause why this appeal should not be dismissed on account of his apparent lack of prosecution. *See id.* When no response was forthcoming, the Court recommended, on October 18, 2013, that this appeal be dismissed on that basis. Doc. 12. That October 18<sup>th</sup> Report and Recommendation (doc. 12) is now pending before Judge Black for review.

On October 29, 2013, Plaintiff, still proceeding *pro se*, filed a document in response to the Show Cause Order and in support of his disability claim. *See* doc. 13. Plaintiff has attached to Document 13 an October 5, 2013 letter from Charles L. Walters, M.D. of Medical Disability Consultants in Dayton, Ohio. *Id.* The Court, again acting in the interest of justice, construes this

letter from Dr. Walters as Plaintiff's Statement of Errors. *Id.* Although the Statement of Errors is thus untimely filed, the Court will accept it and allow this appeal to proceed. Accordingly, the Court's October 18, 2013 Report and Recommendation (doc. 12) is hereby **RESCINDED**.

Plaintiff is afforded an additional period, up through and including **November 15, 2013**, to file any and all other doctor's reports, treatment notes, or any other supporting evidence (including, but not limited to, a brief in support of his disability claims). Plaintiff is **ADVISED** that the purpose of his Statement of Errors is to explain to the Court any and all bases for his contention that the Administrative Law Judge's non-disability finding should be reversed and/or why he should be awarded disability benefits.

Plaintiff is **ADVISED** that if he chooses not to file such documentation by the November 15, 2013 deadline, the Court will proceed to rule on the merits of his appeal and construe Dr. Walters's report (doc. 13, PageID 1503-05) as his Statement of Errors. The Commissioner shall have until **December 6, 2013** in which to file a memorandum in opposition. Plaintiff shall have until **December 13, 2013** in which to file a reply memorandum, should he choose to do so.

Recognizing Plaintiff's *pro se* status, and that he is thus not part of the CM/ECF electronic filing system, the Clerk is instructed to send a copy of this Order via regular and certified mail to Plaintiff at his address listed on the docket sheet. Pursuant to this Order, the Clerk is directed to docket document 13, PageID 1503-05 as Plaintiff's Statement of Errors.

**IT IS SO ORDERED.**

October 29, 2013

s/ **Michael J. Newman**  
United States Magistrate Judge