

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANGIE TURNER,

Plaintiff,

v.

**CAROLYN W. COLVIN, Commissioner
of the Social Security Administration,**

Defendant.

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Civil Action No. **3:14-CV-966-L**

ORDER

Before the court is Plaintiff's correspondence (Doc. 25), filed December 16, 2014, requesting additional time to hire an attorney, which the court construes as a motion to further extend Plaintiff's deadline to file her opening brief. Also before the court is the Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report") (Doc. 24) entered by Magistrate Judge David L. Horan on December 1, 2014, recommending that the court dismiss without prejudice this case pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute and comply with court orders.

Plaintiff filed this appeal on March 17, 2014, from the decision of the Commissioner of the Social Security Administration ("Commissioner") denying her claim for social security benefits. In her Complaint, Plaintiff, who is proceeding *pro se*, merely states: "I dont thing Judge listern to all the evident. And my Health are getting worse." Compl. 1. The magistrate judge therefore directed Plaintiff to file an opening brief by August 22, 2014, setting forth the errors alleged to have been made by the Commissioner. The magistrate judge warned that the deadline would not be modified except upon written motion for good cause shown.

On July 16, 2014, Plaintiff requested an extension of time so she could retain counsel. The magistrate judge granted Plaintiff's request and extended her deadline to file a brief to October 21, 2014. More than one week after the October 21, 2014 deadline, Plaintiff had still not filed her opening brief. The magistrate judge therefore entered a Notice of Deficiency and extended Plaintiff's deadline to November 21, 2014. The magistrate judge also warned that failure to comply with the court's order could result in dismissal of the action pursuant to Rule 41(b). Plaintiff did not respond to the court's Notice of Deficiency or file her opening brief by November 21, 2014.

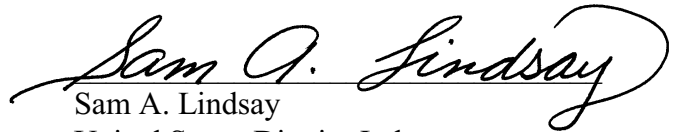
On December 1, 2014, the magistrate judge therefore recommended in his findings and conclusions that the case be dismissed without prejudice under Rule 41(b) unless "within 14 days of the date of this recommendation, Plaintiff makes a filing with the Court indicating that she intends to file a brief." Doc. 24 at 2. Plaintiff's most recent motion for extension of time was filed on December 16, 2014. In her motion, Plaintiff does not indicate that she intends to file a brief but instead explains that she has been unable to find a lawyer who is willing to handle her case. Plaintiff also indicates that she located a law firm in New York that is going to notify her in a few weeks whether it will represent her.

The court will give Plaintiff one more opportunity to file her opening brief. The court therefore **grants** Plaintiff's motion to further extend her deadline to file her opening brief; **extends** Plaintiff's deadline to file her opening brief to **January 21, 2014**; and **rejects as moot** the magistrate judge's findings and conclusions. **No further extensions will be granted.**

There has been little or no activity in this case in the nine months it has been pending, and Plaintiff has had more than enough time to retain counsel and file her opening brief. As previously noted by the magistrate judge, the court cannot proceed with this case and review the Commissioner's decision until Plaintiff files her opening brief. The court, however, is not required

to delay the disposition of this case indefinitely. Accordingly, if Plaintiff files her opening brief by January 21, 2014, the court will recommit the case to the magistrate judge. **Plaintiff's failure, on the other hand, to comply with this order and file an opening brief by January 21, 2014, will result in dismissal without prejudice of this action for failure to prosecute or comply with court orders.**

It is so ordered this 18th day of December, 2014.


Sam A. Lindsay
United States District Judge