

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

GENE WHITE, JR.,)
)
 Plaintiff,)
)
 vs.) Case No. 1:15-cv-01223-RLY-DML
)
 CAROLYN W. COLVIN, Acting)
 Commissioner of the Social Security)
 Administration,)
)
 Defendant.)

Report and Recommendation to
Dismiss Complaint with Prejudice

Plaintiff Gene White, Jr. has failed to prosecute his complaint for judicial review of the denial of his application for disability benefits by the Commissioner of the Social Security Administration.

On October 14, 2015, the court issued its Entry on Briefing Schedule (Dkt. 12) that required Mr. White to file within 28 days a brief in support of his complaint. Mr. White did not file a brief, and on January 5, 2016, the court issued an Order to Show Cause why Plaintiff's Complaint Should Not Be Dismissed with Prejudice, because of Mr. White's failure to comply with the October 14, 2015 order. (Dkt. 13). The order permitted Mr. White to request an "additional, short period of time to file his brief" as part of his explanation why his complaint should not be dismissed. Mr. White responded to the show cause order with a Verified Motion for Continuance, in which he asked for a 60-day extension to allow him time to "gather further information" and to hire an attorney. (Dkt. 14 at p. 1). The court granted

that request in an order entered January 29, 2016, and gave Mr. White a new deadline of March 28, 2016, to file his brief. (Dkt. 16). The court's order explicitly warned Mr. White that the court "will not allow any further extensions of this deadline, regardless of whether he is successful in hiring an attorney."

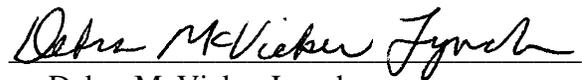
Mr. White did not comply with the court's January 29, 2016 order. He did not file a brief by March 28, 2016. Instead, he mailed to the court on March 28 (see postmarked envelope, at Dkt. 17-1) a "Motion for Continuance" which requests "more time to seek representation and continue to gather more evidence." The court has denied that motion.

Because of Mr. White's failure to comply with the court's orders and his failure to prosecute his claims, the Magistrate Judge recommends to the District Judge that his complaint be DISMISSED WITH PREJUDICE.

Any objections to this Report and Recommendation must be filed in accordance with 28 U.S.C. 636(b)(1) and Fed. R. Civ. P. 72(b). Failure to file objections within fourteen days after service will constitute a waiver of subsequent review absent a showing of good cause for such failure.

IT IS SO RECOMMENDED.

Dated: April 7, 2016


Debra McVicker Lynch
United States Magistrate Judge
Southern District of Indiana

Distribution:

All ECF-registered counsel of record by email through the court's ECF system

Via United States mail:
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