

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ARNOLD RANDELL HOCKENSMITH,)
)
 Plaintiff,)
)
 v.) Civ. No. 06-597-SLR
)
 MICHAEL J. ASTRUE,)
 Commissioner, Social Security)
 Administration,)
)
 Defendant.)

MEMORANDUM ORDER

At Wilmington this 23rd day of October, 2007, having reviewed defendant's motion to dismiss for failure to prosecute;

IT IS ORDERED that said motion (D.I. 17) is granted, for the reasons that follow:

1. On September 26, 2006, pro se plaintiff Arnold Randell Hockensmith ("plaintiff") filed the present action seeking judicial review of a decision of the Social Security Commissioner¹ ("defendant") denying plaintiff's request for benefits.² (D.I. 2) Defendant filed an answer on November 21, 2006. (D.I. 6) Plaintiff submitted a

¹Linda McMann, former Commissioner of Social Security, was originally named as the defendant in this action. (D.I. 2) Michael J. Astrue became the Commissioner of Social Security on February 12, 2007; he was substituted as defendant pursuant to Federal Rule of Civil Procedure 25(d)(1).

²The Social Security Administration Office of Hearings and Appeals denied plaintiff's request for review on May 12, 2006, rendering defendant's decision final for the purposes of appealing to district court. (D.I. 9) Following plaintiff's request for additional time, the Appeals Council extended the time during which plaintiff could initiate a civil action on August 24, 2006, for a period of 30 days, or until September 25, 2006. (Id.)

“response” to defendant’s answer on December 13, 2006, along with medical evidence. (D.I. 9)

2. On May 24, 2007, the court set a briefing schedule for dispositive motions, in which the deadline for filing summary judgment motions was set for July 25, 2007. (D.I. 13) On July 26, 2007, plaintiff filed a “request for an extension of time to file motions for summary judgment and opening brief[s],” in which plaintiff stated that “a 7 day extension would be enough time.” (D.I. 14) The court granted plaintiff’s motion on August 1, 2007, and set a new motions deadline for August 30, 2007 – extending plaintiff an additional three weeks in addition to the time he had requested. (D.I. 16)

3. Defendant brought his motion to dismiss for failure to prosecute on September 19, 2007. (D.I. 17) Plaintiff did not respond to defendant’s motion. To date, plaintiff has never filed a dispositive motion, nor any additional motions for an extension of time. Therefore, the court grants defendant’s motion to dismiss for failure to prosecute.³


United States District Judge

³The court will entertain a motion to reopen the case, should plaintiff file such a motion accompanied by: (1) a motion for summary judgment; and (2) opening brief in support, within 30 days from the date of this order.