

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

BYRON JAMES SHEDD,)
)
 Plaintiff)
)
 v.) 1:14-cv-00086-JAW
)
 SOCIAL SECURITY ADMINISTRATION)
 COMMISSIONER,)
)
 Defendant)

ORDER

Plaintiff commenced this action on March 11, 2014. Defendant answered Plaintiff's complaint on May 14, 2014, and filed the Administrative Record. Pursuant to Local Rule 16.3(a)(2), the Court ordered Plaintiff to file an itemized statement of specific errors *and* fact sheet within sixty (60) days, thereby giving Plaintiff until July 14, 2014, to identify the reasons why Plaintiff contends the administrative decision was in error. Plaintiff is required to articulate the grounds upon which he contends the administrative decision is in error in order to permit Defendant the opportunity to respond to Plaintiff's contentions, and to provide the Court with sufficient information to assess the merits of Plaintiff's claim.

Plaintiff did not file an itemized statement of errors or a fact sheet by the deadline established by the Court. On July 16, 2014, the Court issued an Order to Show Cause, directing Plaintiff to show good cause in writing by August 1, 2014, why the action should not be dismissed given Plaintiff's failure to comply with the Court's order regarding the filing of the itemized statement and fact sheet.

On July 25, 2014, Plaintiff filed a fact sheet (ECF No. 13), but did not file an itemized statement specifying why he contends the administrative decision is in error.¹ Because Plaintiff submitted part of the required filing (i.e., the fact sheet), the Court will permit Plaintiff a final opportunity to comply fully with the Court's scheduling order. On or before September 19, 2014, Plaintiff shall file an itemized statement of specific errors in order to prosecute his action. In the event that Plaintiff, without good cause, fails to file an itemized statement of specific errors on or before September 19, 2014, Plaintiff's complaint could be subject to dismissal.²

CERTIFICATE

Any objections to this Order shall be filed in accordance with Fed. R. Civ. P. 72.

So Ordered.

/s/ John C. Nivison
U.S. Magistrate Judge

Dated this 28th day of August, 2014.

¹ The Court must affirm the administrative decision so long as it applies the correct legal standards and is supported by substantial evidence. This is so even if the record contains evidence capable of supporting an alternative outcome. *Manso-Pizarro v. Sec'y of HHS*, 76 F.3d 15, 16 (1st Cir. 1996) (per curiam); *Rodriguez Pagan v. Sec'y of HHS*, 819 F.2d 1, 3 (1st Cir. 1987). Substantial evidence is evidence that a reasonable mind might accept as adequate to support a finding. *Richardson v. Perales*, 402 U.S. 389, 401 (1971); *Rodriguez v. Sec'y of HHS*, 647 F.2d 218, 222 (1st Cir. 1981). "The ALJ's findings of fact are conclusive when supported by substantial evidence, but they are not conclusive when derived by ignoring evidence, misapplying the law, or judging matters entrusted to experts." *Nguyen v. Chater*, 172 F.3d 31, 35 (1st Cir. 1999).

"[T]he claimant has the burden of showing a disability serious enough to prevent him from working at his former jobs, at which point the burden shifts to the Secretary to show the existence of other jobs in the national economy that the claimant can nonetheless perform." *Vazquez v. Sec'y of Health & Human Servs.*, 683 F.2d 1, 2 (1st Cir. 1982). It is Plaintiff's burden to identify one or more specific errors that would justify setting aside the administrative decision and remanding for further administrative proceedings. Plaintiff must do so in writing.

² In response to the Court's Order to Show Cause (ECF No. 12), Plaintiff represented that he failed to file the statement of errors/fact sheet because he did not have the appropriate form. (ECF No. 13.) The Court accepts Plaintiff's representation, and terminates the Order to Show Cause.

SHEDD v. SOCIAL SECURITY ADMINISTRATION
COMMISSIONER

Assigned to: JUDGE JOHN A. WOODCOCK, JR
Referred to: MAGISTRATE JUDGE JOHN C.
NIVISON

Cause: 42:405 Review of HHS Decision (SSID)

Date Filed: 03/11/2014

Jury Demand: None

Nature of Suit: 863 Social Security:
DIWC/DIWW

Jurisdiction: U.S. Government
Defendant

Plaintiff

BYRON JAMES SHEDD

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V.

Defendant

**SOCIAL SECURITY
ADMINISTRATION
COMMISSIONER**

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