

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

DELENE STERN,)
)
 Plaintiff,)
)
 v.) 2:12-cv-326-JAW
)
 CAROLYN W. COLVIN,)
 Acting Commissioner of)
 Social Security,)
)
 Defendant.)

**ORDER AFFIRMING RECOMMENDED DECISION ON ORDER TO SHOW
CAUSE AND DENYING MOTION FOR EXTENSION OF TIME**

On October 25, 2012, Delene Stern filed a complaint against the Commissioner of the Social Security Administration of the United States seeking judicial review of a final administrative decision by the Commissioner. *Compl.* (ECF No. 1). On April 8, 2013, her then attorney Francis M. Jackson moved to withdraw as her counsel and requested thirty days for her to locate new counsel or file the statement of errors and fact sheet pro se. *Mot. to Withdraw as Counsel and Extension for Statement of Errors and Fact Sheet* (ECF No. 14). On April 9, 2013, the Magistrate Judge granted the motion to withdraw and the motion to extend time, extending the time for the entry of new counsel or the pro se submission of the statement of errors and fact sheet to May 8, 2013, and extending the deadline for any motion to dismiss, remand, or continue to June 12, 2013. *Order* (ECF No. 15). When no entry of appearance of counsel or pro se statement of errors and fact sheet was submitted by May 8, 2013, the Magistrate Judge issued an Order to Show

Cause on May 13, 2013, requiring Ms. Stern to show cause in writing no later than 14 days of the date of the order why the matter should not be dismissed for lack of prosecution. *Order to Show Cause* (ECF No. 16). Ms. Stern failed to respond.

On June 6, 2013, the Magistrate Judge issued a Recommended Decision in which he reiterated this history, including Ms. Stern's failure to timely obtain new counsel or file a statement of errors and fact sheet, and recommended that the Court dismiss the Complaint for failure to prosecute. *Recommended Decision on Order to Show Cause* (ECF No. 17). On June 21, 2013, Ms. Stern acknowledged receiving the Magistrate Judge's Order on June 10, 2013, but she objected to the Recommended Decision and requested additional time to obtain an attorney. *Mot. to Extend Time to Obtain Counsel* (ECF No. 18).

The Court affirms the Recommended Decision and denies her request for additional time to obtain an attorney. Her request comes much too late. It was on April 9, 2013 that the Magistrate Judge first issued an order requiring Ms. Stern either to obtain an attorney or file a pro se statement. Ms. Stern simply ignored the first order. Accordingly, on May 13, 2013, the Magistrate Judge issued an order requiring Ms. Stern to show cause. Ms. Stern ignored the second order. The Magistrate Judge recommended dismissal of the Complaint on June 6, 2013, and Ms. Stern finally responded on June 21, 2013, over five weeks after the May 13, 2013 order to show cause, and over ten weeks after the April 9, 2013 order.

Furthermore, her request is not finite. In her latest motion, Ms. Stern merely asked for some unnamed amount of additional time to find an attorney. She

has not asked for a specific limited time, just a generalized extension. Based on her motion and the proceedings to date, Ms. Stern has given the Court no reason to conclude that if the Court extended the time, Ms. Stern would be any more successful in obtaining an attorney now than she has been over the last two months.

Third, she has not made any showing of due diligence. Other than a brief reference to seeking names of potential lawyers from the Maine State Bar Association and her former lawyer, Ms. Stern has not set forth in any detail when she began the search for an attorney and why that search has been unsuccessful.

Fourth, she has not explained why, without an attorney, she did not make a pro se submission of the statement of errors and fact sheet as the Magistrate Judge directed on April 9, 2013.

Fifth, she has not offered any explanation as to why she did not request more time within the original time periods the Court established. Instead, she allowed those time periods to expire and now seeks relief after the Magistrate Judge recommended dismissal, instead of requesting an extension before the dismissal became necessary due to her silence.

I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision, and determine that no further proceeding is necessary.

For all these reasons, the Court DENIES Delene Stern's Motion for Extension of Time (ECF No. 18) and OVERRULES her Objection to the Recommended Decision on Order to Show Cause (ECF No. 20). The Court AFFIRMS the Recommended Decision (ECF No. 17) and DISMISSES the Complaint (ECF No. 1) for failure to prosecute.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 22nd day of July, 2013

Plaintiff

DELENE STERN

represented by **DELENE STERN**
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V.

Defendant

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COMMISSIONER**

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Interested Party

**SOCIAL SECURITY
ADMINISTRATION**