

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

KENNETH P. NELSON, )  
 )  
 Plaintiff, )  
 )  
 v. ) 1:15-cv-00450-JAW  
 )  
 CAROLYN W. COLVIN, Acting )  
 Commissioner of Social Security, )  
 )  
 Defendant. )

**ORDER OVERRULING OBJECTION TO MAGISTRATE JUDGE ORDER**

On January 7, 2016, Kenneth P. Nelson, acting pro se, filed a motion to compel the Commissioner to produce a video of the June 25, 2014 hearing in this case as well as the Judge’s notes and witness notes. *Mot. to Compel the Commissioner to Release Video of Hr’g* (ECF No. 12) (*Pl.’s Mot.*). On January 28, 2016, the Magistrate Judge denied the Plaintiff’s motion. *Order on Pl.’s Mot. to Compel* (ECF No. 14) (*Order*). On February 4, 2016, Mr. Nelson objected to the Magistrate Judge’s Order. *Objection to Order on Mot. to Compel* (ECF No. 18) (*Objection*).

Mr. Nelson’s appeal is pursuant to Federal Rule of Civil Procedure 72(a), which addresses the standard for review of non-dispositive rulings of a magistrate judge. FED. R. CIV. P. 72(a); *see also* 28 U.S.C. § 636(b)(1); *PowerShare, Inc. v. Syntel, Inc.*, 597 F.3d 10, 14 (1st Cir. 2010) (“[I]n the last analysis a stay order is merely suspensory” and is non-dispositive). Rule 72(a) provides that the district judge “must consider timely objections and modify or set aside any part of the order that is clearly

erroneous or is contrary to law.” FED. R. CIV. P. 72(a). Under this standard, the Court reviews factual findings for clear error, *Phinney v. Wentworth Douglas Hosp.*, 199 F.3d 1, 4 (1st Cir. 1999), and gives plenary review to pure questions of law. *PowerShare*, 597 F.3d at 15.

In his objection, Mr. Nelson states that he is seeking an audiotape of the June 25, 2014 hearing. *Objection* at 1. But this is not what he asked for in his original motion. *Pl.’s Mot.* at 1 (“Motion to compel the commissioner to release the video hearing of Plaintiff dated June 25, 2014”). The Magistrate Judge’s Order responded to that specific request. *Order* at 1. Mr. Nelson may not object to the Magistrate Judge’s failure to order relief Mr. Nelson did not ask for.

Furthermore, on January 28, 2016, Mr. Nelson filed a new motion to compel, this time asking for the recording. *Mot. to Compel* (ECF No. 16). The Commissioner responded to that motion on February 3, 2016. *Def.’s Resp. to Pl.’s Second Mot. to Compel* (ECF No. 17). The Court referred Mr. Nelson’s January 28, 2016 motion to compel to the Magistrate Judge for ruling.

The Court therefore OVERRULES and DISMISSES Kenneth P. Nelson’s Objection to Order on Motion to Compel (ECF No. 18) on the ground that Mr. Nelson is attempting to appeal the Magistrate Judge’s failure to order relief Mr. Nelson did not request and Mr. Nelson’s motion for the audiotape is now before the Magistrate Judge for separate ruling. The Court AFFIRMS the Magistrate Judge’s Order on Plaintiff’s Motion to Compel (ECF No. 14).

SO ORDERED.

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

Dated this 24th day of February, 2016