

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

,) CASE NO.
)
Plaintiff,) JUDGE
)
v.) MAGISTRATE JUDGE
) DAVID A. RUIZ
COMMISSIONER OF SOCIAL SECURITY,)
) INITIAL ORDER
Defendant.)

This action, brought pursuant to 42 U.S.C. § 405(g), is before this Court for either entry of a Report and Recommended Decision or upon consent of the parties for entry of final judgment. In order to ensure a prompt and efficient decision on the issues presented, IT IS HEREBY ORDERED that:

1) **Plaintiff’s Mandatory Notice to the Government.** Plaintiff’s counsel shall immediately do the following: (a) fax (216-522-4982) or email to Crystal Williamson (crystal.williamson@usdoj.gov), Social Security Paralegal for the U.S. Attorney’s Office, Northern District of Ohio, the case name, case number and Plaintiff’s social security number and (b) file a certificate with this Court confirming that such notice has been sent. *See* Local Rule 9.1.

2) **Answer and Transcript.** Pursuant to Local Rule 16.3.1(c), Defendant shall, within 60 days of being served with the complaint, file and serve an answer together with a certified copy of the transcript of the administrative record. No extension will be granted

beyond the 60-day period except upon a showing of good cause.

3) **Plaintiff's Brief on the Merits.** Within forty-five (45) days of the filing of the answer and transcript, the plaintiff shall go forward with his/her primary submission entitled: Plaintiff's Brief on the Merits. Pursuant to Local Rule 16.3.1(g), the brief shall be no more than twenty-five (25) pages in length. *Although a forty-five (45) day period for filing is allowed, this Court refers counsel to Local Rule 16.3.1(d) and expects that such submission will be filed at the earliest possible date.*

In the event the Plaintiff's Brief on the Merits is not filed within forty-five (45) days after the answer, the case may be subject to dismissal for want of prosecution without further notice.

4) **Defendant's Brief on the Merits.** The defendant shall have forty-five (45) days to file its response to Plaintiff's Brief on the Merits. Defendant's brief shall be entitled: Defendant's Brief on the Merits. Pursuant to Local Rule 16.3.1(g), Defendant's brief shall be no more than twenty-five (25) pages in length. If no submission is filed within that time, review will be undertaken based upon the plaintiff's brief only. *Although a forty-five (45) day period for filing is allowed, this Court refers counsel to Local Rule 16.3.1(e) and expects that such submission will be filed at the earliest possible date.*

5) **Reply Brief.** If plaintiff chooses to respond to Defendant's Brief on the Merits, plaintiff shall file a reply brief of no more than ten (10) pages within fourteen (14) days from the filing of the defendant's brief. *See* Local Rule 16.3.1(f) & (g). Plaintiff's reply brief may not raise new legal arguments or simply reiterate arguments previously presented, and should *only* address issues raised in defendant's brief.

6) **Extensions.** The court, having allowed each party fifteen (15) additional days beyond the normal period for filing briefs set by Local Rule 16.3.1(d) & (e), will not grant extensions other than on motions demonstrating good cause. Further, any request for an extension of time must be filed at least five (5) days before the filing deadline. Failure to comply with this requirement may result in denial of the request for extension.

7) **Requirements for Briefs.** The court requires specific content in briefs on the merits and replies. These requirements are intended to allow each side to identify all essential facts upon which their position is based, to argue for their interpretation of how the law should be applied to those facts and to eliminate the requirement that the court search the record for facts not identified by the parties as essential to the determination of the case.

Each party's brief shall contain the following sections:

a. **A Statement of Legal Issues** involved in the case. The Statement of Legal Issues must separately list each issue presented for decision by the Court. Specifically, Statement of Legal Issues must identify the finding that each party asserts is supported/not supported by substantial evidence and a brief summary of the party's supporting argument. Some examples of Plaintiff's issue statements that will conform to this order are as follows:

- i. The ALJ found at step three that the plaintiff's impairments did not meet or equal Listing §____. This finding lacks the support of substantial evidence because (brief summary of why substantial evidence does not support the finding).
- ii. The ALJ found at step four that the plaintiff had the residual functional capacity for_____. This finding lacks substantial evidence because (e.g., the ALJ failed to give controlling weight to the evaluation of Dr._____, a treating physician, and to give good reasons for the weight assigned that evaluation; the ALJ failed to include in the finding limitations caused by plaintiff's_____);

or the ALJ failed to properly evaluate the credibility of the plaintiff's complaints of _____).

Defendant's Brief on the Merits shall include a Statement of Legal Issues that specifically responds to Plaintiff's issue statements.

b. A **Statement of Relevant Facts** setting forth the facts essential to the determination of the action. Each fact shall be **supported by a specific reference to the transcript page number** on which that fact is found (for example, a citation to a medical finding contained on a single page of a 20 page exhibit must cite to the specific page, not generally to the exhibit). The Statement of Relevant Facts shall accurately recite the record in a neutral tone without argument. Arguments should be in the Argument section. Any fact in the transcript not referred to in a party's Statement of Relevant Facts may be deemed non-essential to the determination of the issues presented.

c. An **Argument** containing the party's analysis and advocacy concerning the issues to be decided. Plaintiff's Argument section must address each of the Commissioner's findings that plaintiff claims does not have the support of substantial evidence by citing specific references to the evidence in the transcript supporting plaintiff's arguments. Defendant's brief shall specifically respond to the issues raised by plaintiff. Defendant's brief must contain specific transcript references to the evidence that the Commissioner claims sustain the position that substantial evidence supports the decision(s) at issue.

d. A **Conclusion** setting forth the specific relief sought by the party.

8) The parties are expected to fully and fairly present to the Court all relevant

evidence in the record, both favorable and unfavorable. A full recitation of all relevant evidence should be presented. Briefs shall cite concisely the relevant statutory and case law supportive of the party's position. Any facts recited in support of the Argument section of the brief must also be set forth in the Facts section of the brief.

9) Any factual allegations or arguments relying upon the record that either do not cite to the record or are unsupported by the record citation will not be considered by the Court.

Dated: _____

s/ *David A. Ruiz*

David A. Ruiz

United States Magistrate Judge