

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

PATRICK WATSON,  
Plaintiff,

vs.

Case No. 04-3285-JTM

UNITED STATES OF AMERICA,  
Defendant.

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MEMORANDUM AND ORDER

This matter is before the court on the motion of the defendant United States to dismiss the action. Defendant's motion was filed on January 10, 2006. Judge Lungstrum initially granted the defendant's motion on February 24, 2006. (Dkt. No. 23). Pro se plaintiff Patrick Watson had not responded directly to the Motion to Dismiss, but did respond to the court's order of dismissal by filing, via a motion for reconsideration, a request for an additional 30 to 45 days to respond to the defendant's arguments. On March 2, 2006, Judge Lungstrum granted the motion for reconsideration, with the direction that plaintiff "file a response no later than Friday, July 14, 2006." (Dkt. No. 32, at 3). By the same order, the case was transferred to the undersigned.

Watson subsequently requested appointment of counsel. On June 8, 2006, the United States Magistrate Judge denied Watson's request, noting that Watson had offered no evidence to support his claims that he had otherwise attempted to obtain counsel to advance his claims. (Dkt. No. 36, at 1). The same order noted that Watson's "pleadings and communications demonstrate the capacity to prepare and present his claim without the aid of counsel." (Id. at 2).

Plaintiff Watson has filed no response to the Motion to Dismiss within the date specified in the Order of March 2, 2006. This failure to respond has occurred despite the fact that plaintiff has been accorded almost six months of time to formulate such a response since the government's original motion, and despite the fact that the court has explicitly determined that plaintiff has the means and capacity to articulate his claims. The denial of the motion for appointment of counsel was entered more than a month before the deadline for plaintiff to respond to the motion to dismiss. Neither in Watson's original Motion for Reconsideration (Dkt. No. 26) nor in any subsequent pleading has the plaintiff advanced any circumstances which would justify the failure of the plaintiff to respond within the time permitted by the court's order of March 2, 2006. Of the various materials which have been submitted to the court by the pro se plaintiff over the course of the relevant time period, none addresses the issues raised by defendant's motion.

The court finds that the defendant's Motion to Dismiss (Dkt. No. 18) should be granted both for good cause and as an unopposed matter pursuant to D.Kan.R. 7.4.

IT IS SO ORDERED this 24<sup>th</sup> day of July, 2006.

s/ J. Thomas Marten  
J. THOMAS MARTEN, JUDGE