

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DOUGLAS LESLIE WILKINSON,)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	No. 06-1311-MLB
)	
JO ANNE BARNHART, COMMISSIONER)	
SOCIAL SECURITY ADMINISTRATION,)	
)	
Defendant.)	
_____)	

ORDER

Before the court are the following:

1. Recommendation and Report of U.S. Magistrate Judge John Thomas Reid (Doc. 11); and
2. Plaintiff's letter to Judge Reid filed April 23, 2007 (Doc. 12).

Because plaintiff is proceeding pro se, plaintiff's letter will be considered as a timely objection to Judge Reid's Recommendation and Report.

The court has reviewed Judge Reid's Recommendation and Report and plaintiff's objection in the manner contemplated by 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b). Judge Reid recommended that defendant's motion to dismiss for lack of jurisdiction be granted. Judge Reid found:

As in Brandtner [v. Department of Health and Human Services], 150 F.3d 1306 (10th Cir. 1998)], plaintiff in this case failed to file a request for review within 60 days of receiving notice of the unfavorable ALJ decision. Plaintiff's request for review was dated over 4 months after mailing of the notice of the ALJ decision. Furthermore, plaintiff provided no explanation for failing to file the notice in a timely fashion. Therefore, this case should be dismissed for lack of

jurisdiction.

Judge Reid also observed that because plaintiff failed to file a response to defendant's January 19, 2007 motion to dismiss, no basis existed for waiving the requirement of exhaustion of administrative remedies. Judge Reid recommended defendant's motion to dismiss be granted for lack of jurisdiction.

The court has endeavored to liberally construe plaintiff's letter to Judge Reid. Plaintiff does not take issue with Judge Reid's findings. Instead, plaintiff asserts that all the documents he has received from defendant read "final determination" and requests instructions regarding the administrative remedies he has not exhausted. Plaintiff has not attached any documents and the applicable administrative remedies are outlined in detail in Judge Reid's Recommendation and Report. It was not Judge Reid's job, nor is it the job of this court, to give plaintiff legal advice or otherwise assist him with the prosecution of his case. He has not complied with administrative requirements and this court is without jurisdiction to grant him relief.

Accordingly, this court accepts Judge Reid's findings and recommendation that defendant's motion to dismiss for lack of jurisdiction be granted.

IT IS SO ORDERED.

Dated this 20th day of June 2007, at Wichita, Kansas.

s/ Monti Belot
Monti L. Belot
UNITED STATES DISTRICT JUDGE