

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

BRENDA T. PETREY, o/b/o
BRIAN PETREY,

Plaintiff,

vs.

Case No. 13-1472-SAC

CAROLYN W. COLVIN,
Acting Commissioner of
Social Security,

Defendant.

MEMORANDUM AND ORDER

On July 29, 2014, the court issued an order dismissing the above action because the complaint was filed on December 25, 2013, one day after the 60 days provided to file a civil action (Doc. 15). Plaintiff has filed a motion to set aside the court's order (Doc. 17). As the court noted in its order of July 29, 2014, the time for filing a civil action may be extended by the Appeals Council. Plaintiff's motion attaches an order of the Appeals Council, dated July 8, 2014, extending the time for filing a civil action through December 25, 2013 (Doc. 17-1). Defendant has not responded to the motion, so it will be considered and decided as an uncontested motion.¹ D. Kan. Rule

¹ Inexplicably, defendant filed a reply brief on July 17, 2014, nine days after the Appeals Council granted the extension of time through December 25, 2013, arguing that the case should be dismissed because of plaintiff's untimely filing of his complaint on December 25, 2013 (Doc. 14).

7.4(b). The court finds that good cause has been shown to grant the motion.

IT IS THEREFORE ORDERED that the order to dismiss or grant summary judgment in favor of the defendant (Doc. 15) is set aside.

IT IS FURTHER ORDERED that the defendant shall file their answer and the record on or before October 17, 2014.

Dated this 2nd day of September 2014, Topeka, Kansas.

s/Sam A. Crow
Sam A. Crow, U.S. District Senior Judge