

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

DEANNA MILLER PARKER,

Plaintiff,

vs.

**NANCY A. BERRYHILL,
Acting Commissioner of Social Security,**

Defendant.

Case No. 17-1063-DDC

MEMORANDUM AND ORDER

Pro se plaintiff¹ Deanna Miller Parker brings this action the Acting Commissioner of Social Security (“Commissioner”). She filed two Complaints in this one action: (1) a “Civil Complaint” (Doc. 1 at 1–6), and (2) an “Employment Discrimination Complaint” (Doc. 1 at 7–11). On October 19, 2017, the court dismissed plaintiff’s “Employment Discrimination Complaint” because it lacked subject matter jurisdiction over plaintiff’s claims against the Commissioner alleging employment discrimination under the Americans with Disabilities Act. Doc. 15.

Plaintiff’s “Civil Complaint” seeks judicial review of the final decision by the Commissioner denying plaintiff’s application for disability insurance benefits. This Complaint remains pending before the court. But, plaintiff has not filed her opening brief within the time required by our court’s Local Rule—D. Kan. Rule 83.7.1(d). On October 19, 2017, the court issued an Order to Show Cause to plaintiff directing her to show cause why the court should not dismiss her case for lack of prosecution under Fed. R. Civ. P. 41(b). Doc. 16.

¹ When the court considers a pro se litigant’s pleadings, it construes them liberally and holds them to a “less stringent standard” than ones drafted by lawyers. *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

On October 31, 2017, plaintiff filed two documents. First, plaintiff filed “Plaintiff’s Answer to Show Cause Order.” Doc. 17. In this filing, plaintiff complains about the Commissioner’s denial of her application for disability insurance benefits. Plaintiff asserts that she is in pain daily, other individuals with less severe conditions have received disability benefits, and the Commissioner unreasonably overlooked her evidence supporting her disabilities. But, plaintiff’s filing never explains why she has not filed her opening brief in this lawsuit as D. Kan. Rule 83.7.1(d) requires.

Second, plaintiff filed a “Motion for Reconsideration.” Doc. 18. Plaintiff’s filing does not seem to seek reconsideration of any of the court’s orders. Instead, it appears to ask for an extension of time to prepare her opening brief. *Id.* ¶ 1. To the extent plaintiff seeks reconsideration of the court’s October 19, 2017 Memorandum and Order, the court denies her motion. Plaintiff provides no reason for the court to reconsider its ruling under either Fed. R. Civ. P. 59(e), Fed. R. Civ. P. 60, or D. Kan. Rule 7.3. To the extent plaintiff seeks an extension of time to file her opening brief, the court grants her request. The court recognizes that plaintiff’s filings never explain clearly why she has failed to file her opening brief within the time required by our local rule. Nevertheless, the court grants plaintiff an extension of time to file her opening brief **on or before December 1, 2017. The court cautions plaintiff, however: her failure to file her opening brief by the December 1, 2017 deadline likely will result in the court’s dismissal of her lawsuit for failing to prosecute under Fed. R. Civ. P. 41(b).**

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiff’s Motion for Reconsideration (Doc. 18) is granted in part and denied in part. To the extent plaintiff seeks reconsideration of the court’s October 19, 2017 Memorandum and Order, the court denies her motion. To the extent plaintiff seeks an extension of time to file her opening brief in her action

seeking judicial review of the Commissioner's denial of her application for disability insurance benefits, the court grants her request. **Plaintiff must file her opening brief on or before December 1, 2017, or her case will be dismissed.**

IT IS SO ORDERED.

Dated this 2nd day of November, 2017, at Topeka, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge