

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

ARTHUR WILLIAMS, JR.,

Plaintiff,

vs.

Case No. 22-CV-2368-EFM

KILOLO KIJAKAZI, Acting Commissioner
of Social Security,

Defendant.

MEMORANDUM AND ORDER

Pro se Plaintiff Arthur Williams, Jr. filed a Complaint against Defendant Kilolo Kijakazi, the Acting Commissioner of Social Security (“Commissioner”) on September 16, 2022, asserting a violation of his constitutional right to due process. He alleges that he did not receive notice of the Social Security Administration’s intent to end his supplemental security income benefits and health insurance. The Commissioner was served with the Complaint on September 30, 2022. On November 29, 2022, the Commissioner filed a motion to dismiss.

On December 15, 2022, Plaintiff filed a response to the Commissioner’s motion. He also filed a Motion for Default Judgment (Doc. 11). In this Motion, Plaintiff seeks a default judgment against the Commissioner arguing that Defendant had 21 days to respond to his Complaint and took 74 days. Plaintiff is mistaken. First, Plaintiff improperly measures when the time for filing

a responsive pleading begins. It does not start on the date the Complaint was filed but instead starts upon service of the Complaint. The Commissioner was served on September 30, 2022. Second, the Commissioner had 60 days from service to file a responsive pleading because the suit is against the United States, or the Commissioner, who is an employee or officer of a United States agency.¹ The Commissioner filed a motion to dismiss on November 29, 2022—within 60 days of service—and thus is not in default. Accordingly, the Court denies Plaintiff’s Motion for Default Judgment.

In addition, the Commissioner’s motion to dismiss was denied on January 9, 2023. Pursuant to Fed. R. Civ. P. 12(a)(4)(A), the Commissioner then had fourteen days from that date to file an answer, or until January 23, 2023. On January 20, 2023, the Commissioner timely requested a 30-day extension of time to file an answer to Plaintiff’s Complaint (Doc. 14). The Court grants the Commissioner’s Motion, and the Commissioner’s answer is due on or before February 22, 2023.


IT IS THEREFORE ORDERED that Plaintiff’s Motion for Default Judgment (Doc. 11) is **DENIED**.

IT IS FURTHER ORDERED that the Commissioner’s Motion for Extension of Time to File an Answer (Doc. 14) is **GRANTED**. Defendant Commissioner has until February 22, 2023, to file an Answer to Plaintiff’s Complaint.

¹ Fed. R. Civ. P. 12(a)(2)-(3) (giving the United States, a United States agency, or a United States officer or employee sued in their official capacity, or in their individual capacity for acts done on behalf of the United States, 60 days to file an answer).

IT IS SO ORDERED.

Dated this 25th day of January, 2023.

A handwritten signature in black ink, reading "Eric F. Melgren". The signature is written in a cursive, flowing style with a large, stylized "E" and "M".

ERIC F. MELGREN
CHIEF UNITED STATES DISTRICT JUDGE