

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KIMBERLY KILPATRICK,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

ORDER

09-cv-393-bbc

Kimberly Kilpatrick brought a pro se appeal of defendant Michael J. Astrue's denial of her application for social security disability benefits. After she failed to file a brief in support of her appeal, despite being granted many extensions of time in which to do so, the court recruited counsel to represent her. Dkt. #19. On August 13, 2010, plaintiff's counsel filed a notice of voluntary dismissal and the case was closed.

On January 6, 2014, plaintiff filed a motion to reopen her case, saying that she never meant to sign the notice of voluntary dismissal and that she was told by the Social Security Administration that she has another case pending. Dkt. #27. She alleges that her court-recruited counsel was ineffective because he never responded to the "six questions" the court had asked him to answer for plaintiff, *id.* at 2, and asks for an explanation of her other pending case.

It is too late for plaintiff to reopen her 2009 case. Rule 60 of the Federal Rules of Civil

Procedure require that a motion to reopen be brought “within a reasonable time.” Even if this court were to find that plaintiff has brought her motion “within a reasonable time,” which is unlikely, plaintiff has not shown any reason for reopening the case. All she says is that her lawyer did not answer six questions the court wanted him to answer for her. She does not say what the questions were and nothing in the court record indicates that the court imposed any requirement on counsel to answer six particular questions for plaintiff. The court expects that court-recruited counsel will explain matters to their clients but it does not tell them what form the explanation must take.

As for plaintiff’s other pending social security application, she will have to ask the Social Security Administration about it. This court has no information about claims pending before that agency and privacy protections would prohibit the agency from giving out such information to this court when no case is pending here on plaintiff’s behalf.

ORDER

IT IS ORDERED that plaintiff Kimberly Kilpatrick’s motion to reopen this case is DENIED for her failure to show any reason why it should be reopened more than three years after it was closed.

Entered this 5th day of February, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge