

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

JAMES A. WILLIAMS,

Petitioner,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security
Administration,

Respondent.

ORDER

12-cv-802-bbc

On February 13, 2013, defendant Michael J. Astrue, the Commissioner of Social Security, filed its answer, dkt. #8, along with a “motion for leave to file defendant’s answer,” dkt. #7, which I will construe as a motion for extension of time. Defendant’s deadline for filing its answer was January 18, 2013. After the time for action has passed, extensions may be granted when justified by “excusable neglect.” Fed.R.Civ.P. 6(b)(2). Excusable neglect “encompasses situations in which the failure to comply with a filing deadline is attributable to negligence,” if the oversight is excusable. Pioneer Investment Services Co. v. Brunswick Associates L.P., 507 U.S. 380, 394-95 (1993). To determine whether a late filing is the result of excusable neglect, a court looks to whether the opposing party will suffer prejudice, the effect on the judicial proceedings, the reason for the delay and whether the movant acted in good faith. Crue v. Aiken, 370 F.3d 668, 681 (7th Cir. 2004).

Defendant’s counsel, Richard Humphrey, has declared that he entered the answer

deadline into his calender as February, rather than January. Dkt. #9. Although counsel's action was careless, plaintiff will suffer no prejudice from the delay, the case has not been unduly delayed and counsel acted promptly upon learning of the mistake. Accordingly, defendant's "motion for leave to file defendant's answer," dkt. #7, is GRANTED.

Entered this 19th day of February, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge