UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

ROGER MCDONNELL,

Plaintiff,

v. **Case No: 5:21-cv-315-GKS-PRL**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER

THIS CAUSE comes before the Court upon the Defendant Commissioner of Social Security's Motion to Dismiss Pro Se Plaintiff Roger McDonnell's claims (Doc. 9) (Motion) which was filed on July 9, 2021 and served upon Plaintiff by the United States via U. S. Mail. Plaintiff has not filed any opposition to the Motion.

The Court referred the Motion to the United States Magistrate Judge for a report and recommendation (Report and Recommendation). On August 12, 2021, the United States Magistrate Judge issued a Report and Recommendation recommending that the Motion be granted (Doc. 10). Neither party has filed any objections to the Report and Recommendation.

In this case, as Magistrate Judge Lammens explained

> Plaintiff has not alleged that he completed the administrative review process and received a "final decision" regarding the SSA's overpayment determination and decision that he had

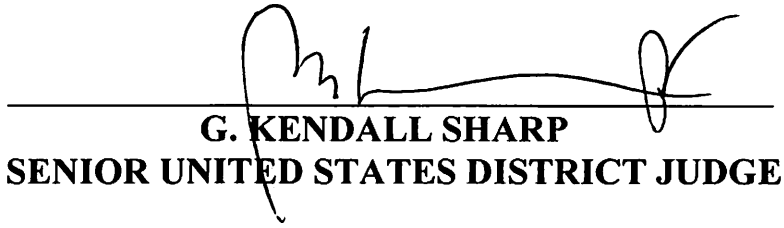
> an arrearage on his Medicare Part B premiums (Doc. 1-1 at 3-5; Carter Decl. ¶¶ 7, 8). To the contrary, the SSA has offered evidence that Plaintiff has only gotten to the point of seeking reconsideration of both the overpayment and the Medicare premium arrearage on June 17, 2021; and that both requests for reconsideration remain pending.

Doc. 10 at 7. Thus, as Plaintiff has failed to exhaust his administrative remedies, he cannot establish subject matter jurisdiction in accordance with 42 U.S.C. § 405(g).

After review and consideration of the Report and Recommendation (Doc. 10), and noting that neither party objects to the Report and Recommendation, it is hereby **ORDERED** and **ADJUDGED** as follows:

1. United States Magistrate Judge Philip R. Lammens' Report and Recommendation (Doc. 10) is **APPROVED** and **ADOPTED** and is made part of this Order for all purposes, including appellate review.
2. The Defendant Commissioner's Motion to Dismiss (Doc. 9) is **GRANTED**.
3. The Clerk of Court is DIRECTED to CLOSE the case.

DONE AND ORDERED at Orlando, Florida, this 20 day of September, 2021.



G. KENDALL SHARP
SENIOR UNITED STATES DISTRICT JUDGE

Copies to:
Counsel of Record
Unrepresented Parties