

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

**CALVIN L. ROBINSON,**

**Plaintiff,**

**v.**

**Case No: 5:17-cv-528-Oc-18PRL**

**COMMISSIONER OF SOCIAL  
SECURITY**

**Defendant.**

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**REPORT AND RECOMMENDATION<sup>1</sup>**

This matter is before the court on the Commissioner's unopposed motion for entry of judgment under sentence four of 42 U.S.C. § 405(g), asking the Court to remand this case for further proceedings. (Doc. 18). The Commissioner states that on remand, the Administrative Law Judge will "compare the prior medical evidence to the current medical evidence to determine whether Plaintiff has medically improved."

Pursuant to Title 42, United States Code, Section 405(g) the Court is empowered to reverse the decision of the Commissioner with or without remanding the cause for a rehearing. *Shalala v. Schaefer*, 509 U.S. 292 (1993). The failure of the ALJ to develop the record constitutes sufficient grounds for remand. *Brissette v. Heckler*, 730 F.2d 548 (8th Cir. 1984), *appeal after remand* 613 F. Supp. 722 (E.D. Mo. 1985), *judgment aff'd in part, rev'd in part*, 784 F.2d 864 (8th Cir. 1986). Where the district court cannot discern the basis for the Commissioner's decision, a sentence-four

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<sup>1</sup> Within 14 days after being served with a copy of the recommended disposition, a party may file written objections to the Report and Recommendation's factual findings and legal conclusions. *See* Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1)(B); Local Rule 6.02. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1.

remand may be appropriate to allow him to explain the basis for his decision. *Falcon v. Heckler*, 732 F.2d 827, 829-30 (11th Cir. 1984) (holding remand was appropriate to allow the ALJ to explain the basis for the determination that the claimant's depression did not significantly affect her ability to work). On remand under sentence four, the ALJ should review the case on a complete record, including any new material evidence. *Diorio v. Heckler*, 721 F.2d 726, 729 (11th Cir. 1983) (finding that it was necessary for the ALJ on remand to consider psychiatric report tendered to Appeals Council); *Reeves v. Heckler*, 734 F.2d 519, 522 n. 1 (11th Cir. 1984) (holding that the ALJ should consider on remand the need for an orthopedic evaluation).

Therefore, following a careful review of the record and filings, the Court agrees with the parties that it is appropriate to remand this matter to the Commissioner. Accordingly, it is **RECOMMENDED** that:

- (1) Commissioner's unopposed motion for entry of judgment with remand (Doc. 18) be **GRANTED**.
- (2) This action be **REVERSED AND REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g)<sup>2</sup> for the Commissioner to conduct further proceedings.
- (3) The Clerk should also be directed to terminate Plaintiff's motion for miscellaneous relief (see Doc. 15).

**Recommended** in Ocala, Florida on April 9, 2018.

  
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PHILIP R. LAMMENS  
United States Magistrate Judge

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<sup>2</sup> Remand pursuant to sentence four of § 405(g) makes the plaintiff a prevailing party for purposes of the Equal Access to Justice Act, 28 U.S.C. § 2412, and terminates this Court's jurisdiction over this matter. *Shalala v. Schaefer*, 509 U.S. 292 (1993).

Copies furnished to:

Presiding District Judge  
Counsel of Record  
Unrepresented Party  
Courtroom Deputy