

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

VALENCIA DENISE WESTBERRY,

Plaintiff,

v.

Case No: 6:19-cv-452-Orl-TBS

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

This case comes before the Court on Defendant's Unopposed Motion for Entry of Judgment Under Sentence Four of 42 U.S.C. § 405(g) with Remand (Doc. 21). The Commissioner of Social Security requests that the Court enter a judgment reversing and remanding this case so that she can take the following administrative action:

Upon remand, the Commissioner will evaluate Plaintiff's challenge to the ALJ's authority under the Appointments Clause in accordance with SSR 19-1p, and take any other action deemed necessary.

(Id., at 1). The Commissioner represents that Plaintiff has no objection to the motion.

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 case for a rehearing. Shalala v. Schaefer, 509 U.S. 292 (1993). Upon remand under sentence-four, the administrative law judge must review the complete case record, including any new material evidence. Diorio v. Heckler, 721 F.2d 726, 729 (11th Cir. 1983).

Now, on consideration and review:

(1) The Commissioner's motion to remand is **GRANTED**, and this case is **REVERSED AND REMANDED** to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g), for further administrative proceedings.

(2) On remand, the Commissioner will evaluate Plaintiff's challenge to the ALJ's authority under the Appointments Clause in accordance with SSR 19-1p and shall take any other action deemed necessary.

(3) The Clerk is directed to **ENTER JUDGMENT** accordingly, **TERMINATE** any pending motions, and **CLOSE** the file.

(4) The deadline to file a motion for attorney's fees pursuant to 42 U.S.C. § 406(b) shall be thirty (30) days after Plaintiff receives notice from the Social Security Administration of the amount of any past due benefits awarded. Upon receipt of the notice, counsel for Plaintiff shall promptly email Mr. Rudy and the OGC attorney who prepared the Government's brief to advise that the notice has been received.

DONE and ORDERED in Orlando, Florida on June 25, 2019.



THOMAS B. SMITH
United States Magistrate Judge

Copies furnished to Counsel of Record