

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SHIRLEY ANN COMER,

Plaintiff,

v.

Case No. 8:23-cv-1584-CPT

MARTIN O'MALLEY,  
Commissioner of Social Security,<sup>1</sup>

Defendant.

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**ORDER**

Before the Court is Defendant Commissioner's motion to remand this action pursuant to sentence four of 42 U.S.C. § 405(g). (Doc. 22). According to the Commissioner, such a remand is necessary "for further administrative proceedings" and is not opposed by the Plaintiff. *Id.*

Sentence four of section 405(g) provides that a "court shall have [the] power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner . . . with or without remanding the cause for a rehearing." 42 U.S.C. § 405(g). In a sentence four remand, the appropriate procedure is for a court to enter a final judgment in the claimant's

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<sup>1</sup> Mr. O'Malley became the Commissioner of Social Security (Commissioner) on December 20, 2023. Pursuant to Federal Rule of Civil Procedure 25(d), Mr. O'Malley is substituted for the former Acting Commissioner, Kilolo Kijakazi, as the Defendant in this suit.

favor. *Shalala v. Schaefer*, 509 U.S. 292, 296–97 (1993); *Jackson v. Chater*, 99 F.3d 1086, 1095 (11th Cir. 1996).

In light of the above, it is hereby ORDERED:

1. The Commissioner’s motion (Doc. 22) is granted.
2. The Commissioner’s decision is reversed, and the case is remanded for further proceedings before the Social Security Administration consistent with this Order.
3. The Clerk of Court is directed to enter Judgment in the Plaintiff’s favor, to terminate any pending motions, and to close the case.

SO ORDERED in Tampa, Florida, this 8th day of January 2024.

  
HONORABLE CHRISTOPHER P. TUITE  
United States Magistrate Judge

Copies to:  
Counsel of record