

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

MICHAEL J. WYSONG

PLAINTIFF

v.

CIVIL NO. 2:15-cv-2034-MEF

CAROLYN W. COLVIN, Commissioner
Social Security Administration

DEFENDANT

MEMORANDUM OPINION

Michael Wysong (“Plaintiff”) brings this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of a decision of the Commissioner of the Social Security Administration (Commissioner) denying his applications for disability insurance benefits (“DIB”) and supplemental security income (“SSI”). ECF No. 1. This matter is presently before the undersigned by consent of the parties. ECF No. 6.

The Commissioner filed an answer to Plaintiff’s action on August 20, 2015, asserting that the findings of the Commissioner were supported by substantial evidence and were conclusive. ECF No. 8. On October 28, 2015, having changed positions, the Commissioner filed an unopposed motion requesting that Plaintiff’s case be remanded pursuant to “sentence four” of section 405(g) in order to conduct further administrative proceedings. ECF Nos. 11.

The exclusive methods by which a district court may remand a social security case to the Commissioner are set forth in “sentence four” and “sentence six” of 42 U.S.C. § 405(g). A remand pursuant to “sentence six” is limited to two situations: where the Commissioner requests a remand before answering the complaint, or where the court orders the Commissioner to consider new, material evidence that was for good cause not presented before the agency. The Fourth sentence of the statute provides that “[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of

Social Security, with or without remanding the cause for a rehearing.” 42 U.S.C. § 405(g); *Shalala v. Schaefer*, 509 U.S. 292, 296 (1993).

Here, we find remand is appropriate. Therefore, the Commissioner’s motion to remand is hereby **GRANTED** and the case remanded to the Commissioner for further administrative action pursuant to “sentence four” of section 405(g).

DATED this 6th day of November, 2015.

/s/ Mark E. Ford
HONORABLE MARK E. FORD
UNITED STATES MAGISTRATE JUDGE