

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
TEXARKANA DIVISION

EARL WAYNE GILL, I

PLAINTIFF

vs.

Civil No. 4:13-cv-04047

CAROLYN COLVIN,  
Commissioner, Social Security Administration

DEFENDANT

**MEMORANDUM OPINION**

On September 27, 2013, Defendant filed an Unopposed Motion to Remand. ECF No. 14.<sup>1</sup> The motion states Plaintiff has no objections. *Id.* The parties have consented to the jurisdiction of a magistrate judge to conduct any and all proceedings in this case, including conducting the trial, ordering the entry of a final judgment, and conducting all post-judgment proceedings. ECF No. 5. Pursuant to this authority, the Court issues this memorandum opinion and orders the entry of a final judgment in this matter.

Defendant requests a remand so the Commissioner may conduct further administrative proceedings and further evaluate Plaintiff's disability status. Specifically, Defendant requests the case be remanded to an ALJ for further administrative proceedings in order to further develop the record by reconsidering Plaintiff's earnings including the different sources mentioned in the record and determining whether Plaintiff had earnings consistent with substantial gainful activity throughout the whole period of issue. The Defendant also requests the ALJ re-evaluate the residual functional capacity assessment, evaluate Plaintiff's credibility, and issue a new decision.

This Court finds this motion is well-taken and should be granted. The Commissioner's

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<sup>1</sup> The docket numbers for this case are referenced by the designation "ECF No." The transcript pages for this case are referenced by the designation "Tr."

decision is reversed, and this matter is hereby remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings. In addition, the undersigned finds the Plaintiff's Complaint should be and hereby is dismissed without prejudice. Plaintiff may still, however, file a motion for attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

A judgment incorporating these findings will be entered pursuant to Federal Rules of Civil Procedure 52 and 58.

**ENTERED this 1<sup>st</sup> day of October 2013.**

/s/ Barry A. Bryant  
HON. BARRY A. BRYANT  
U.S. MAGISTRATE JUDGE