

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

ARTHUR J. GOSHAY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 3:06CV492-SRW
	)	(WO)
MICHAEL J. ASTRUE, Commissioner	)	
of Social Security,	)	
	)	
Defendant.	)	

**ORDER**

Plaintiff brought the present action pursuant to 42 U.S.C. § 405(g) seeking judicial review of a decision by the Commissioner of Social Security denying him benefits under the Social Security Act. On June 7, 2007, this court remanded the case to the Commissioner for consideration of new evidence pursuant to sentence six of § 405(g). On remand, the Commissioner awarded benefits, and plaintiff’s counsel now seeks entry of judgment and an award of attorney’s fees pursuant to the Equal Access to Justice Act.

The Commissioner’s decision indicates that the plaintiff died on February 19, 2008. Counsel’s authority to act on behalf of the plaintiff terminated upon plaintiff’s death. See Cheramie v. Orgeron, 434 F.2d 721, 725 (5th Cir. 1970)(“[T]he authority of defense counsel . . . to act for [the decedent] was terminated by the death.”)(citing Restatement (Second) of Agency, § 120 (1958)); Bass v. Attardi, 858 F.2d 45, 50 n. 12 (3rd Cir. 1989).

Accordingly, and for good cause, it is

ORDERED that the motion for entry of judgment and the motion for attorney’s fees

are DENIED without prejudice.<sup>1</sup>

DONE, this 22<sup>nd</sup> day of October, 2008.

/s/ Susan Russ Walker  
SUSAN RUSS WALKER  
CHIEF UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> After a statement noting the plaintiff's death (see, e.g., Fed. R. Civ. P. 84 and Appendix of Forms, Form 9) is served and filed by someone other than plaintiff's counsel pursuant to Fed. R. Civ. P. 25(a) and Fed. R. Civ. P. 4, plaintiff's successor(s) or representative(s) may file a motion for substitution.