

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

JAMES A. JONES,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	CIVIL ACTION 08-0298-M
	:	
MICHAEL J. ASTRUE,	:	
Acting Commissioner of	:	
Social Security,	:	
	:	
Defendant.	:	

MEMORANDUM OPINION AND ORDER

In this action under 42 U.S.C. §§ 405(g) and 1383(c)(3), Plaintiff seeks judicial review of an adverse social security ruling which denied a claim for disability insurance benefits and Supplemental Security Income (Docs. 1, 13). The parties filed written consent and this action has been referred to the undersigned Magistrate Judge to conduct all proceedings and order the entry of judgment in accordance with 28 U.S.C. § 636(c) and Fed.R.Civ.P. 73 (see Doc. 18).

Defendant has filed a Motion and Memorandum for Entry of Judgment Under Sentence Four of 42 U.S.C. § 405(g) with Remand of the Cause to the Defendant (Doc. 16). Defendant has stated that Plaintiff's attorney has no objection to the motion (Doc. 16, p. 2). Defendant states the following

On remand by the Court, the Appeals Council will remand this case to an Administrative Law Judge (ALJ), who will be directed to (1) properly evaluate and weigh all medical evidence and opinions, including the opinion of Dr. Billett; (2) properly evaluate and discuss Plaintiff's subjective complaints, noting specific evidence

to support the ALJ's credibility determination; and (3) obtain medical expert testimony to receive a longitudinal assessment of Plaintiff's mental impairment both with and absent the abuse of drugs and alcohol.

(Doc. 16, pp. 1-2). This is a tacit admission that Plaintiff's application was not appropriately considered and that this action should be reversed. Without reviewing the substantive evidence of record, this Court accepts Defendant's acknowledgment of error.

It appears to the Court that the decision of the Secretary should be reversed and remanded. Such remand comes under sentence four of 42 U.S.C. § 405(g). See *Melkonyan v. Sullivan*, 501 U.S. 89 (1991). For further procedures not inconsistent with this report, see *Shalala v. Schaefer*, 509 U.S. 292 (1993).

Therefore, it is **ORDERED**, without objection from Plaintiff, that Defendant's Motion to Remand under sentence four be **GRANTED** (Doc. 10) and that this action be **REVERSED** and **REMANDED** to the Social Security Administration for further administrative proceedings not inconsistent with the orders of this Court. Judgment will be entered by separate order.

DONE this 11th day of December, 2008.

s/BERT W. MILLING, JR.
UNITED STATES MAGISTRATE JUDGE