

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

DAVID E. McCURLEY,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	CA 17-0494-MU ¹
	:	
NANCY A. BERRYHILL,	:	
Deputy Commissioner for Operations,	:	
performing the duties and functions not	:	
reserved to the Commissioner of	:	
Social Security,	:	
	:	
Defendant.		

MEMORANDUM OPINION AND ORDER²

This matter is before the Court on the Deputy Commissioner for Operations’ unopposed motion to reverse and remand this action pursuant to sentence four of 42 U.S.C. § 405(g) (see Doc. 21), filed June 12, 2018.³ In her motion, the Deputy Commissioner for Operations represents that it is her belief that this case should be remanded to the Commissioner of Social Security for further administrative proceedings but does not state the specific grounds upon which the request for remand is based (see *id.* at 1 (noting only this Court’s power to enter a judgment remanding this action to the

¹ The parties have consented to the exercise of jurisdiction by the Magistrate Judge, pursuant to 28 U.S.C. § 636(c), for all proceedings in this Court. (Docs. 22 & 24 (“In accordance with the provisions of 28 U.S.C. 636(c) and Fed.R.Civ.P. 73, the parties in this case consent to have a United States Magistrate Judge conduct any and all proceedings in this case, . . . order the entry of a final judgment, and conduct all post-judgment proceedings.”)).

² In light of the contents of this Memorandum Opinion and Order, the oral argument presently scheduled in this case for July 19, 2018 (Doc. 19) is hereby **CANCELED**.

³ The Commissioner represents that counsel for the Plaintiff has no opposition to this motion. (See *id.* at 1.)

Commissioner of Social Security for further proceedings)); therefore, the Court simply **ORDERS** that the Deputy Commissioner for Operations, on remand, direct the Administrative Law Judge (ALJ) assigned to this case to address all issues identified by Plaintiff in his brief (see Doc. 13), as well as any other issues raised by Plaintiff on remand.

The plain language of sentence four of 42 U.S.C. § 405(g) empowers this Court “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.” The Defendant’s unopposed motion (Doc. 21) is **GRANTED** and the decision of the Commissioner of Social Security denying Plaintiff benefits is reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g), see *Melkonyan v. Sullivan*, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991), for further proceedings not inconsistent with this decision. The remand pursuant to sentence four of § 405(g) makes Plaintiff a prevailing party for purposes of the Equal Access to Justice Act, 28 U.S.C. § 2412, see *Shalala v. Schaefer*, 509 U.S. 292, 112 S.Ct. 2625, 125 L.Ed.2d 239 (1993), and terminates this Court’s jurisdiction over this matter.

DONE and **ORDERED** this the 15th day of June, 2018.

s/P. BRADLEY MURRAY
UNITED STATES MAGISTRATE JUDGE