

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

GERALD M. LETT,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	CA 21-0478-MU
	:	
KILOLO KIJAKAZI,	:	
Acting Commissioner of Social Security,	:	
	:	
Defendant.	:	

**MEMORANDUM OPINION AND ORDER**

This matter is before the Court<sup>1</sup> on the Commissioner of Social Security's unopposed motion to reverse and remand this action pursuant to sentence four of 42 U.S.C. § 405(g), filed April 25, 2022 (see Doc. 16).<sup>2</sup> In her motion, the Commissioner of Social Security represents that it is her belief that this case should be remanded for further administrative proceedings. (*Id.*, PageID. 1120). "On remand, the Appeals Council will instruct the Administrative Law Judge (ALJ) to: (1) reconsider Plaintiff's impairments at step two of the sequential evaluation [process] and determine if Plaintiff's medically determinable impairment of malignant colon neoplasm was a severe

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<sup>1</sup> 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. (Doc. 17 ("In accordance with 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."); see also Doc. 18 (order of reference)).

<sup>2</sup> The Commissioner contacted counsel for the Plaintiff and reports that Plaintiff's attorney has no opposition to this motion. (See *id.*, PageID. 1120).

impairment during the period at issue; (2) reconsider whether Plaintiff's impairments meet or equal the Listings, including Listing 13.18, obtaining the opinion of a medical expert if needed; (3) reassess the medical opinion evidence; (4) reconsider Plaintiff's residual functional capacity; (5) if warranted, obtain vocational expert evidence; (6) offer Plaintiff the opportunity for a new hearing; and (7) issue a new decision." (*Id.*).

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 Court therefore **GRANTS** the Defendant's unopposed motion (Doc. 16) and the decision of the Commissioner of Social Security denying Lett 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 27th day of April, 2022.

s/P. Bradley Murray  
**UNITED STATES MAGISTRATE JUDGE**