

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

ROSE SELVIDGE

PLAINTIFF

vs.

Civil No. 1:11-cv-01019

MICHAEL J. ASTRUE,
Commissioner, Social Security Administration

DEFENDANT

MEMORANDUM OPINION

On May 27, 2011, Defendant filed a Motion to Remand. ECF No. 4.¹ Defendant states Plaintiff has been contacted and has no objection to this Motion. ECF No. 4. 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. 3. 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. Defendant requests this remand so that the ALJ can hold another hearing, permit the admission of new evidence, and attempt to reconstruct the prior administrative record. The remand is sought because the Agency has been unable to locate and/or reconstruct the prior administrative record related to the ALJ decision dated December 4, 2008, which is the subject of this complaint.

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

¹ 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 27th day of June, 2011.

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