

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

SCOTTIA L. HICKS

PLAINTIFF

vs.

Civil No. 2:05-cv-2105

MICHAEL J. ASTRUE¹
Commissioner, Social Security Administration

DEFENDANT

MEMORANDUM OPINION

BEFORE the Court is Defendant's Motion to Dismiss. (Doc. No. 12).² The Plaintiff has not responded to this Motion. 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. (Doc. No. 5). The Court, having reviewed the motion, finds Defendant's Motion To Dismiss should be **GRANTED**.

Background:

Plaintiff filed her Complaint pursuant to 42 U.S.C. § 405(g), seeking judicial review of the of the final decision of Defendant, the Commissioner of Social Security (Commissioner), denying her claim for Disabled Adult Children's benefits. (Doc. No. 1). On October 27, 2005, Plaintiff filed a Motion to Supplement Record with additional medical evidence and to have her case remanded to the Commissioner for consideration of such evidence. (Doc. No. 6). On August 10, 2006, the Court issued a Memorandum Opinion, stating the supplemental evidence Plaintiff sought to have admitted constituted material evidence and remanded Plaintiff's case to the Commissioner for further

¹ Michael J. Astrue became the Social Security Commissioner on February 12, 2007. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Michael J. Astrue has been substituted as the defendant in this suit.

² The docket numbers for this case are referenced by the designation "Doc. No."

consideration pursuant to sentence six of 42 U.S.C. § 405(g). (Doc. No. 10). On November 28, 2006, the Commissioner found Plaintiff disabled after a review of Plaintiff's medical history. (Doc. No. 12, Pg. 2).

Discussion:

Defendant argues that as a result of being found disabled, Plaintiff has obtained a fully favorable decision, and there are no further issues for this Court to decide. Defendant requests this Court issue a Final Judgment on this matter dismissing Plaintiff's complaint because the issue of disability is moot.

A case is moot when it is "impossible for the court to grant any effectual relief whatever." See *Deerbrook Pavilion, LLC v. Shalala*, 235 F.3d 1100, 1103 (8th Cir. 2000), citing *Church of Scientology v. United States*, 506 U.S. 9, 12 (1992) (internal quotation omitted). Dismissal is appropriate as there is no longer an issue under controversy. See *Carr v. Saucier*, 582 F.2d 14, 15-16 (5th Cir. 1978) (per curiam). As a result of a favorable disability finding, Plaintiff no longer has an interest in the matter, this matter should be dismissed.

Conclusion:

Based on the foregoing, the undersigned finds Defendant's Motion to Dismiss (Doc. No. 12) should be **GRANTED**. A judgment incorporating these findings will be entered pursuant to Federal Rules of Civil Procedure 52 and 58.

ENTERED this 29th day of September, 2008.

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