

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

SPENCER W. LEMIEUX

PLAINTIFF

v.

Civil No. 09-2132

MICHAEL J. ASTRUE, Commissioner  
Social Security Administration

DEFENDANT

**J U D G M E N T**

For reasons stated in a memorandum opinion of this date, we conclude that the decision of the Commissioner denying benefits to the plaintiff is not supported by substantial evidence and should be reversed and remanded for further consideration pursuant to sentence four of 42 U.S.C. § 405(g). **The parties have sixty days from entry of the judgment on the docket in which to appeal.**

If plaintiff wishes to request an award of attorney's fees and cost under the Equal Access to Justice Act (EAJA) 28 U.S.C. § 2412, an application may be filed up until 30 days after the judgment becomes "not appealable" i.e., 30 days after the 60-day time for appeal has ended. *See Shalala v. Schaefer*, 509 U.S. 292, 296, 113 S.Ct. 2625 (1993); 28 U.S.C. §§ 2412(d)(1)(B), (d)(2)(G).

IT IS SO ORDERED AND ADJUDGED this 16th day of November 2010.

*/s/ J. Marschewski*

HON. JAMES R. MARSCHEWSKI  
CHIEF UNITED STATES MAGISTRATE JUDGE