

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

ALBERT BOYD, JR.

PLAINTIFF

vs.

Civil No. 2:12-cv-02005

MICHAEL J. ASTRUE,
Commissioner, Social Security Administration

DEFENDANT

MEMORANDUM OPINION

On June 13, 2012, Defendant filed a Motion to Remand. ECF No. 14.¹ 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. ECF No. 5. 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. Specifically, Defendant requests the case be remanded to an ALJ to further develop the record by contacting the treating and examining sources to request medical source statements regarding Plaintiff's ability to perform the physical requirements of sustained work activity. 20 C.F.R. §§ 404.1527, 416.927 and Social Security Rulings 96-2p and 96-5p.

Additionally, according to Defendant, the ALJ should reconsider treating source evidence

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."

and provide an appropriate rationale to explain the weight given to the opinion evidence; should provide specific statements explaining the basis of the new Residual Functional Capacity (“RFC”) finding determining Plaintiff’s maximum RFC; and if warranted, the ALJ should call upon a medical expert or vocational expert for testimony.

This Court finds this motion is well-taken and should be granted. The Commissioner’s 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 18th day of July 2012.

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