

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

GINA GILBREATH

PLAINTIFF

v.

CIVIL NO. 2:16-cv-2278-MEF

CAROLYN COLVIN, Commissioner
Social Security Administration

DEFENDANT

MEMORANDUM OPINION

Plaintiff, Gina Gilbreath, filed this action seeking judicial review of a decision of the Commissioner of Social Security (Commissioner) pursuant to 42 U.S.C. § 405(g). ECF No. 1. On March 10, 2017, in lieu of an answer, the Defendant filed an Unopposed Motion to Remand pursuant to sentence six of 42 U.S.C. § 405(g). ECF. No. 9, 10.

There are currently two cases pending before this Court concerning this Plaintiff and covering similar time periods. On August 7, 2014, this Court remanded case number 13-2134 (Gilbreath I), covering the period from February 25, 2011, through February 17, 2012. On remand, the administrative law judge (ALJ) entered an unfavorable decision on September 18, 2015, and the current case (Gilbreath III), is an appeal of that unfavorable decision on remand.

On May 9, 2013, while Gilbreath I was working its way through the system, Plaintiff filed subsequent applications, alleging an onset date of February 18, 2012. Following an unfavorable decision by an ALJ on August 15, 2014, the case was appealed to this Court and is currently pending as case number 16-2177 (Gilbreath II).

For an unknown reason, Gilbreath II and Gilbreath III were not consolidated during the administrative proceedings and were decided by two different ALJ's. Unfortunately, in Gilbreath III, the ALJ did not have all of the medical evidence before for him, namely Plaintiff's treatment records and diagnostic evidence from Sparks Regional Medical Center in 2013 and 2014.

Accordingly, the Commissioner requests remand of this case to allow the ALJ to consider all of the medical evidence from Gilbreath I, II, and III, including any new evidence submitted, and reevaluate Plaintiff's claim for disability insurance benefits (DIB) and supplemental security income (SSI).

This court may remand a social security case pursuant to sentence six of 42 U.S.C. § 405(g) when the Commissioner, for good cause, requests remand to take further administrative action before filing an answer to the complaint. 42 U.S.C. § 405(g); *Shalala v. Schaefer*, 509 U.S. 292, 113 S.Ct. 2625 (1993). In the present case, the Defendant has not yet filed an answer, and we find good cause exists to support her request for remand.

Based on the foregoing, we hereby grant the Defendant's motion and remand this case to the Commissioner for further administrative action pursuant to sentence six of 42 U.S.C. § 405(g). In view of the lengthy administrative proceedings Plaintiff has already completed, we direct that the Defendant expedite the administrative proceedings on remand.

DATED this 10th day of March, 2017.

/s/ Mark E. Ford
HON. MARK E. FORD
UNITED STATES MAGISTRATE JUDGE