

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

KATHY CABALLERO

PLAINTIFF

V.

CIVIL ACTION NO. 2:17-cv-2140-MEF

NANCY A. BERRYHILL, Acting
Commissioner Social Security Administration

DEFENDANT

FINAL JUDGMENT

This cause is before the Court on the Plaintiff's complaint for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration denying her claim for disability benefits. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c). The Court, having reviewed the administrative record, the briefs of the parties, the applicable law, and the parties having waived oral argument, finds as follows, to-wit:

Consistent with the Court's ruling from the bench, the decision of the Commissioner of Social Security is reversed and remanded for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

The Court does not find substantial evidence to support the ALJ's RFC determination in this case. The record makes clear that the Plaintiff was unable to obtain medical records from her treating physician, Dr. Ngoc Hoang, and requested the ALJ's assistance in issuing a subpoena. Without a formal ruling, the ALJ failed to issue a subpoena, and then, in part, discredited Dr. Hoang's assessment due to the absence of treatment records to support it. However, both Dr. Hoang and the consultative neurologist, Dr. Al-Khatib, opined that the Plaintiff could not sit for

more than four hours during an eight-hour workday, which would render her incapable of performing the range of sedentary work identified by the ALJ. Accordingly, on remand, the ALJ is directed to obtain the medical records from Dr. Hoag, dating back to August 2013. Upon receipt of those records, the ALJ is further ordered to reconsider the assessments of Dr. Hoang and Dr. Al-Khatib, paying particular attention to the Plaintiff's ability to sit, stand, walk, perform postural activities, and the potential need for a sit/stand option.

IT IS SO ORDERED AND ADJUDGED on this the 16th day of March 2018.

/s/ Mark E. Ford

HON. MARK E. FORD

UNITED STATES MAGISTRATE JUDGE