

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

TONY LOUIS HOLMAN

PLAINTIFF

V.

CIVIL NO. 2:17-cv-02227-MEF

NANCY A. BERRYHILL, Acting
Commissioner Social Security Administration¹

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 his claims for disability benefits ("DIB") and supplement income benefits ("SSI"). 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 decision in this case. On remand, the ALJ is directed to properly consider the additional medical evidence from March 2017. The ALJ should also obtain an RFC assessment from Plaintiff's current treating orthopedic specialist or orthopedic surgeon, and specific inquiry should be made regarding Plaintiff's ability to sit, stand, and walk, the potential need for a sit/stand option, the length of time Plaintiff would be expected to be off task during an eight-hour workday as a result of his impairments, and the

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Nancy A. Berryhill should be substituted for Acting Commissioner Carolyn W. Colvin as the defendant in this suit.

number of workdays per month Plaintiff would be expected to miss as a result of his impairments. Should Plaintiff's current orthopedic specialist or orthopedic surgeon be unable or otherwise unwilling to provide such an RFC assessment, the ALJ should then order an orthopedic consultative examination, complete with a thorough RFC assessment. Upon receiving this additional information, the ALJ should reconsider Plaintiff's RFC and his Step Four and Step Five findings.

IT IS SO ORDERED AND ADJUDGED on this 25th day of October 2018.

/s/ Mark E. Ford

HON. MARK E. FORD

UNITED STATES MAGISTRATE JUDGE