

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

JACOB A. MCCOOL

PLAINTIFF

v.

CIVIL NO. 2:18-cv-2034-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 regarding his applications for Disability Insurance Benefits and Supplemental Security Income. 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), with any appeal to the Court of Appeals for the Eighth Circuit. The Court, having reviewed the record, the administrative transcript, the briefs of the parties, the applicable law, and the parties having waived oral argument, finds as follows, to-wit:

For the reasons announced by the Court on the record on December 13, 2018, the Court finds that the decision of the Commissioner of Social Security is not supported by substantial evidence and should be reversed, with benefits to be awarded to Plaintiff as of October 31, 2012.

The Court previously remanded this matter for further development of the record as to the limitations caused by Plaintiff's foot impairment and for reconsideration of the RFC assessment. Following that remand and a supplemental administrative hearing, the ALJ failed to state good reasons for granting little weight to the opinion of Plaintiff's treating physician, Dr. Silver. Further, while stating that he gave the consultative examiner Dr. Honghiran's opinion substantial weight, the ALJ ignored Dr. Honghiran's sitting restrictions without explanation. The opinions of

these physicians make it clear that Plaintiff cannot perform the sitting requirements of sedentary work.

When the Commissioner's decision to deny benefits is improper, we ordinarily will remand for further proceedings out of an abundance of deference to the agency's authority to make benefits determinations. *Buckner v. Apfel*, 213 F.3d 2006, 1011 (8th Cir. 2000). However, it is clear to this Court that the evidence in this case supports a finding of disability. In making his decision to the contrary, the ALJ ignored the findings of Drs. Silver and Honghiran that Plaintiff could not perform the sitting requirements of a sedentary job. This case was previously remanded for further development of the record, resulting in more medical opinions supporting Plaintiff's disability, which the ALJ ignored. A remand for further consideration would only further delay this case.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the decision of the Administrative Law Judge is reversed, and this case is remanded to the Commissioner with directions to award benefits to Plaintiff as of October 31, 2012.

IT IS SO ORDERED this the 14th day of December 2018.

/s/ Mark E. Ford

HON. MARK E. FORD

UNITED STATES MAGISTRATE JUDGE