

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

GRAIG LINTZ o/b/o
K.L.

PLAINTIFF

v.

CIVIL NO. 22-2156

KILOLO KIJAKAZI, Acting Commissioner
Social Security Administration

DEFENDANT

MEMORANDUM OPINION

Plaintiff, Graig Lintz, brings this action on behalf of his minor child, K.L., seeking judicial review, pursuant to 42 U.S.C. § 405(g), of a decision of the Commissioner of the Social Security Administration (Commissioner) finding K.L. is not entitled to disability benefits under the provisions of Title XVI of the Social Security Act (Act). (ECF No. 2). The Defendant filed an Answer to Plaintiff's action on December 1, 2022, asserting that the findings of the Commissioner were supported by substantial evidence and were conclusive. (ECF No. 10).

On February 7, 2023, the Commissioner, having changed positions, filed an unopposed motion to remand requesting that Plaintiff's case be remanded pursuant to "sentence four" of section 405(g) in order to conduct further administrative proceedings. (ECF No. 16).

The exclusive methods by which a district court may remand a social security case to the Commissioner are set forth in "sentence four" and "sentence six" of 42 U.S.C. § 405(g). A remand pursuant to "sentence six" is limited to two situations: where the Commissioner requests a remand before answering the complaint, or where the court orders the Commissioner to consider new, material evidence that was for good cause not presented before the agency. The fourth sentence of the statute provides that "[t]he court shall have power to enter, upon the pleadings and transcript

of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." 42 U.S.C. § 405(g); *Shalala v. Schaefer*, 509 U.S. 292, 296 (1993).

Based on the foregoing, the Court finds appropriate remand for further administrative action pursuant to "sentence four" of section 405(g).

DATED this 7th day of February 2023.

/s/ Christy Comstock

HON. CHRISTY COMSTOCK
UNITED STATES MAGISTRATE JUDGE