

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

SCOTT P. THAYER

PLAINTIFF

v.

CIVIL NO. 2:23-cv-02117-MEF

MARTIN O'MALLEY, Commissioner,  
Social Security Administration

DEFENDANT

**MEMORANDUM OPINION**

Plaintiff, Scott Thayer, filed this action on March 13, 2023, seeking judicial review of a decision of the Commissioner of Social Security (Commissioner) pursuant to 42 U.S.C. § 405(g). (ECF No. 2). On January 26, 2024, 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).

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).

In the present case, the Commissioner contends that the record contains evidence belonging to another claimant. (ECF No. 10). The ALJ relied on and cited to this evidence in his opinion. As such, we find remand is appropriate to allow the Defendant to conduct further administrative proceedings regarding this matter.

Therefore, the Commissioner's Unopposed Motion to Remand (ECF No. 9) is GRANTED and the case is remanded back to the Commissioner for further administrative action pursuant to "sentence six" of section 405(g).

DATED this 29th day of January 2024.

/s/ Mark E. Ford

HON. MARK E. FORD  
UNITED STATES MAGISTRATE JUDGE