

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

THOMAS P. TAYLOR

PLAINTIFF

V.

NO. 10-3039

MICHAEL J. ASTRUE,
Commissioner of Social Security

DEFENDANT

MEMORANDUM OPINION

Plaintiff Thomas P. Taylor filed this action on May 6, 2010, seeking judicial review of a decision of the Commissioner of Social Security (Commissioner) pursuant to 42 U.S.C. § 405(g). (Doc. #3). Instead of answering the complaint, Defendant filed a motion requesting Plaintiff's case be remanded for further administrative action pursuant to sentence six of 42 U.S.C. § 405(g). (Doc. # 7). Defendant states in his motion that the SSA's Office of Appellate Operations has been unable to locate the claim file of the Administrative Law Judge's (ALJ) decision dated July 31, 2009. In his brief in support of his motion, Defendant states that upon receipt of the Court's order, the Appeals Council will continue to search for the missing file and if located, and if all of the materials including the hearing recording are complete, the certified administrative record will be prepared. If not, the Appeals Council will remand the case to an ALJ for reconstruction of the administrative record and to hold another hearing and issue a new decision. (Doc. #8, p. 2). No response to Defendant's motion has been filed.

Pursuant to sentence six of 42 U.S.C. § 405(g), a district court may remand a social security case when the Commissioner, for good cause, requests remand to take further administrative action before filing an answer to the complaint. 42 U.S.C. § 405(g); Shalala v.

Schaefer, 509 U.S. 292 (1993). In the present case, an answer has not been filed, and the Court finds good cause exists to support Defendant's request for remand.

Based upon the foregoing, the Court hereby grants Defendant's motion and remands this case to the Commissioner for further administrative action pursuant to sentence six of 42 U.S.C. § 405(g). In view of the lengthy administrative proceedings plaintiff has already completed, the Court directs that Defendant expedite the administrative proceedings on remand.

DATED this 29th day of September, 2010.

/s/ Erin L. Setser

HONORABLE ERIN L. SETSER
UNITED STATES MAGISTRATE JUDGE