

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

MARTIN J. MURRAY

PLAINTIFF

v.

CIVIL NO. 3:24-cv-03022-MEF

MARTIN O'MALLEY, Commissioner
Social Security Administration

DEFENDANT

MEMORANDUM OPINION AND ORDER

Martin Murray (“Plaintiff”) brings this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of a decision of the Commissioner of the Social Security Administration (the “Commissioner”) denying his application for disability benefits. (ECF No. 2). The parties have consented to the jurisdiction of a Magistrate Judge to conduct all proceedings in this case, and pursuant to said authority, the Court issues this Order. (ECF No. 5).

In lieu of an answer, the Commissioner filed the Social Security Transcript on June 26, 2024, asserting that the findings of the Commissioner were supported by substantial evidence and were conclusive. (ECF No. 7). *See* FED. R. CIV. P. SUPP SS RULE 4. On September 24, 2024, having changed positions, the Commissioner filed an unopposed motion requesting that Plaintiff’s case be remanded pursuant to “sentence four” of section 405(g) to conduct further administrative proceedings. (ECF Nos. 13, 14).

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). The Supreme Court has held that a remand for further administrative proceedings, such as the remand requested here, is a sentence four remand within the meaning of 42 U.S.C. § 405(g). *See Melkonyan v. Sullivan*, 501 U.S. 89, 99-100 (1991).

Accordingly, the Defendant’s Unopposed Motion to Remand (ECF No. 13) is **GRANTED**, and the case is remanded to the Commissioner for further administrative action pursuant to “sentence four” of section 405(g).

DATED this 24th day of September 2024.

/s/ Mark E. Ford

HONORABLE MARK E. FORD
CHIEF UNITED STATES MAGISTRATE JUDGE