

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

TIMIKA MONTGOMERY o/b/o K.M.

PLAINTIFF

V.

NO. 09-4001

MICHAEL J. ASTRUE,  
Commissioner of the Social Security Administration

DEFENDANT

**J U D G M E N T**

Plaintiff, Timika Montgomery, appealed the Commissioner's denial of benefits to this Court. On February 18, 2010, the Court remanded Plaintiff's case to the Commissioner pursuant to sentence six of 42 U.S.C. § 405(g) for further proceedings. Following remand, the ALJ issued an undated favorable decision finding Plaintiff entitled to benefits (Doc. #25, Ex. 1). Plaintiff now moves for the entry of a final judgment by this Court so that Plaintiff can proceed with an Application and Affidavit for attorney's fees pursuant to 28 U.S.C. §2412 of the Equal Access to Justice Act. (Doc. #12).

When a Court remands a case pursuant to sentence six and retains jurisdiction pending completion of the administrative proceedings, entry of a final judgment is delayed until after the post-remand agency proceedings have been completed and the agency's results have been filed with the court. See Shalala v. Schaefer, 509 U.S. 292, 296, 113 S.Ct. 2625 (1993). As all proceedings on remand have been completed and an administrative decision favorable to Plaintiff has been issued, Plaintiff is entitled to the entry of judgment in her favor.

Accordingly, the Court hereby affirms the favorable decision of the Commissioner and dismisses Plaintiff's complaint. **The parties have sixty days from entry of this judgment on the docket in which to appeal.**

If Plaintiff wishes to request an award of attorney's fees and cost under the Equal Access to Justice Act, 28 U.S.C. § 2412, an application may be filed up until 30 days after the judgment becomes "not appealable" i.e., 30 days after the 60-day time for appeal has ended. See Shalala v. Schaefer, 509 U.S. 292 at 296; 28 U.S.C. §§ 2412(d)(1)(B),(d)(2)(G).

IT IS SO ORDERED AND ADJUDGED this 22<sup>nd</sup> day of December, 2011.

*/s/ Erin L. Setser*

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HON. ERIN L. SETSER  
UNITED STATES MAGISTRATE JUDGE