

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

LISA S. DUREN

PLAINTIFF

vs.

Civil No. 4:09-cv-04091

MICHAEL J. ASTRUE

DEFENDANT

Commissioner, Social Security Administration

MEMORANDUM OPINION

On October 29, 2009, Defendant filed an Unopposed Motion for Remand. (Doc. No. 7). Plaintiff has no opposition to this Motion. (Doc. No. 7, Pg. 4). The parties have consented to the jurisdiction of a magistrate judge to conduct any and all proceedings in this case, including conducting the trial, ordering the entry of a final judgment, and conducting all post-judgment proceedings. (Doc. No. 5).¹ Pursuant to this authority, the Court issues this memorandum opinion and orders the entry of a final judgment in this matter.

1. Background

Defendant requests a remand for further administrative action pursuant to Sentence Six of 42 U.S.C. § 405(g). Specifically, Defendant claims the following:

The complaint states that there is newly discovered material evidence. The Office of Disability Adjudication and Review seeks remand in the subject case so that the Appeals Council can respond to Plaintiff's attorney request for reconsideration based on submission of additional evidence.

(Doc. No. 4, Page 1).

¹ The docket numbers for this case are referenced by the designation "Doc. No." The transcript pages for this case are referenced by the designation "Tr."

2. Applicable Law

Pursuant to 42 U.S.C. § 405(g), a court is authorized to remand a case to the Commissioner of the Social Security Administration (“Commissioner”). A court is authorized to remand such an action if three requirements are met: (1) the Commissioner made the motion for remand, (2) the motion was made prior to the time the Commissioner’s answer was filed, and (3) the Commissioner established good cause for the remand. *See id.*

3. Discussion

This Court finds all three requirements of 42 U.S.C. § 405(g) are met and that this motion is well-taken and should be granted. First, the defendant is the Commissioner in this action, and the Commissioner filed this Motion to Remand. (Doc. No. 7). Second, Defendant made this motion prior to the time his answer was filed. *See id.* Third, the Commissioner has established good cause for this Motion to remand. This remand is necessary so that the Commissioner may respond to Plaintiff’s attorney request for reconsideration based on submission of additional evidence.

4. Conclusion

Based upon the forgoing, Defendant’s Unopposed Motion To Remand is **GRANTED**, and this case is remanded to the Commissioner for further administrative action pursuant to sentence six of 42 U.S.C. § 405(g).

ENTERED this 30th day of October, 2009.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE