

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

ERIC GAYTON

PLAINTIFF

vs.

Civil No. 4:14-cv-04147

CAROLYN COLVIN,
Commissioner, Social Security Administration

DEFENDANT

MEMORANDUM OPINION

On April 13, 2015, Defendant filed an Unopposed Motion to Remand. ECF No. 11.¹ Defendant states he has contacted Plaintiff's counsel, Greg Giles, who does not oppose the motion. *Id.* 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. ECF No. 5. Pursuant to this authority, the Court issues this memorandum opinion and orders the entry of a final judgment in this matter.

Defendant requests a remand so the Commissioner may conduct further administrative proceedings and further evaluate Plaintiff's disability status. ECF No. 12. Specifically, Defendant requests the case be remanded to an ALJ so that the ALJ can determine whether Plaintiff has been disabled from December 8, 2006, through his date last insured of December 31, 2011; if a closed period is determined, evaluate whether medical improvement occurred from the date Plaintiff was found to no longer be disabled (20 C.F.R. § 404.1594(b)(1)); give further consideration to Plaintiff's maximum residual functional capacity and provide rationale with specific references to evidence of record in support of assessed limitations (Social Security Ruling 96-8p); reevaluate the treating and

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

nontreating source opinions pursuant to the provisions of 20 C.F.R. § 404.1527 and Social Security Rulings 96-2p and 96-5p and nonexamining source opinions in accordance with the provisions of 20 C.F.R. § 404.1527(e) and Social Security Ruling 96-6p, and explain the weight given to such opinion evidence; and if warranted; at step five, obtain supplemental evidence from a vocational expert regarding the effect of the assessed limitations on the occupational base (Social Security Ruling 83-14).

This Court finds this motion is well-taken and Defendant's Unopposed Motion to Remand (ECF No. 11) should be **GRANTED**. The Commissioner's decision is reversed, and this matter is hereby remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings. In addition, the undersigned finds the Plaintiff's Complaint should be and hereby is dismissed without prejudice. Plaintiff may still, however, file a motion for attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

A judgment incorporating these findings will be entered pursuant to Federal Rules of Civil Procedure 52 and 58.

ENTERED this 15th day of April 2015.

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