

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FORT SMITH DIVISION

MELIANIE SPEAR

PLAINTIFF

V.

NO. 14-5103

CAROLYN W. COLVIN,  
Acting Commissioner of the Social Security Administration

DEFENDANT

**MEMORANDUM OPINION**

Plaintiff, Melianie Spear, filed this action on March 26, 2014, seeking judicial review of a decision of the Commissioner of the Social Security Administration (Commissioner) pursuant to 42 U.S.C. § 405(g). (Doc. 1). 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. 14). Defendant states in her brief in support of her motion that the Appeals Council seeks remand of this claim for further administrative proceedings because the recording of the administrative hearing held on October 5, 2011 is inaudible. Upon entry of the Order granting the motion, the Appeals Council will remand the case to an ALJ for a de novo hearing.

Pursuant to sentence six of 42 U.S.C. § 405(b), 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, 113 S.Ct. 2625 (1993). In the present case, an answer has not been filed and we find 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).

DATED this 18<sup>th</sup> day of August, 2014.

*/s/ Erin L. Setter*

HONORABLE ERIN L. SETTER  
UNITED STATES MAGISTRATE JUDGE