

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

CHRISTOPHER TUBBERVILLE

PLAINTIFF

v.

CIVIL NO. 23-6092

MARTIN J. O'MALLEY,¹ Commissioner
Social Security Administration

DEFENDANT

MEMORANDUM OPINION

Plaintiff, Christopher Tubberville, 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 (Commissioner) denying his application for a period of disability and disability insurance benefits (DIB) and supplemental security income (SSI) benefits under the provisions of Titles II and XVI of the Social Security Act (Act). (ECF No. 4). The Defendant filed an Answer to Plaintiff's action on October 13, 2023. (ECF No. 7).

On February 6, 2024, the Commissioner filed an unopposed motion to remand Plaintiff's case pursuant to "sentence four" of section 405(g) in order to conduct further administrative proceedings. (ECF No. 16).

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,

¹ Martin J. O'Malley, has been appointed to serve as Commissioner of the Social Security Administration, and is substituted as Defendant pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure.

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).

Based on the foregoing, the Court finds appropriate remand for further administrative action pursuant to "sentence four" of section 405(g).

DATED this 6th day of February 2024.

/s/ Christy Comstock

HON. CHRISTY COMSTOCK
UNITED STATES MAGISTRATE JUDGE