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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NOREEN LYNETTE THOMPSON,
Plaintiff,
v.
CAROLYN W. COLVIN, Acting
Commissioner of Social Security,
Defendant.

No. 2:13-cv-1787-EFB

ORDER

Plaintiff seeks judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying her application for Supplemental Security Income (“SSI”) under Title XVI of the Social Security Act. The parties’ cross-motions for summary judgment are pending. In her motion for summary judgment, plaintiff argues, among other things, that the Commissioner failed to file a complete record as required by 42 U.S.C. § 405(g), by not including all of the evidence relied upon by the administrative law judge (“ALJ”) in his decision denying her application for SSI. ECF No. 15-1 at 12-14. Specifically, the Commissioner submitted a draft (including editorial comments to correct typographical errors) rather than final version of a decision by an ALJ that was relied upon in issuing the decision that is now before the court for review.

1 Plaintiff previously filed an application for SSI on June 2, 2008, alleging that she had been
2 disabled since July 12, 2002. Administrative Record (“AR”) 91. On February 22, 2010,
3 Administrative Law Judge (“ALJ”) Timothy S. Snelling apparently issued a decision finding that
4 plaintiff was not disabled under section 1614(a)(3)(A) of the Act. *Id.* at 88-101. A copy of the
5 final version of that decision has not been included in the record before the court and the
6 Commissioner has not otherwise filed a copy.¹

7 Plaintiff filed a new application for SSI on June 25, 2010, alleging disability since June
8 12, 2008. After a hearing on her claim of disability, the assigned ALJ, William C. Thompson,
9 issued a decision finding that plaintiff was not disabled under section 1614(a)(3)(A) of the Act.
10 *Id.* at 13-27. Significantly, in reaching this decision, the ALJ relied heavily on ALJ Snelling’s
11 prior decision, which concluded that plaintiff was not disabled on or before February 22, 2010.
12 However, the administrative record filed in this case does not contain the final decision issued by
13 ALJ Snelling in plaintiff’s prior SSI case. Instead, the record contains what appears to be a draft
14 of ALJ Snelling’s decision. AR 91-98. The document contains notations in the margins with
15 proposed corrections and while purporting to bears “/s/” on the signature line it is not actually
16 signed by ALJ Snelling. Furthermore, there are so many editorial comments calling for further
17 edits and corrections to the document that there is no reason to conclude that the ALJ intended
18 that version to serve as a final decision. There is simply no evidence to authenticate that the
19 unsigned version is in fact the final decision issued by ALJ Snelling.

20 The absence of a copy of the final decision issued by ALJ Snelling was raised by plaintiff
21 in her motion for summary judgment. The Commissioner’s cross-motion for summary judgment
22 does not squarely address this concern and glosses over the fact that only a working draft is
23 contained in the record. Given ALJ Thompson’s heavy reliance on ALJ Snelling’s prior decision,
24 a properly authenticated final version of Snelling’s decision should have been included in the
25 administrative record so that the court could properly evaluate the merits of plaintiff’s

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¹ According to the Commissioner, plaintiff did not appeal that decision.

1 argument. As it was not, the Commissioner is ordered to file by March 4, 2015, a final and
2 signed copy of ALJ Snelling's February 22, 2010 decision.

3 DATED: February 25, 2015.

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5 EDMUND F. BRENNAN
6 UNITED STATES MAGISTRATE JUDGE
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