

1 EUNICE PARQUET,)
 2)
 3 Plaintiff,)
 4)
 4 v.)
 5 MICHAEL J. ASTRUE,)
 6 Commissioner, Social Security))
 7 Defendant.)
 8)
 9)

No. C-96-01855 DLJ

ORDER

10 On August 30, 2011, defendant filed a Motion to Dismiss and
 11 Suggestion of Death on the Record. Defendant informs the Court that
 12 plaintiff is deceased and that there are no qualified survivors to
 13 continue the suit. Defendant therefore requests that the Court
 14 dismiss the pending action.

15 I. Background

16 According to Social Security Administration Records, Plaintiff
 17 applied in 1987 for disability benefits. Her original request was
 18 denied. Plaintiff filed a second application in 1990. She received
 19 a partially favorable decision in 1994 and began receiving benefits
 20 then but she also sought review in the Federal Court.

22 On January 16, 1997, this Court granted the Commissioner's
 23 request for remand, pursuant to sentence six of section 205(g) of
 24 the Social Security Act, 42 U.S.C. § 405(g). On remand, in November
 25 1997, Plaintiff again received a partially favorable decision. See
 26 Exhibit A ¶ 6, Declaration of William Zuroff. Plaintiff requested
 27 review and had another hearing on August 3, 1998. On September 17,
 28 1998, an ALJ issued a *res judicata* dismissal. See Exhibit A.

1 Again according to Social Security records, plaintiff received
2 Title 2 benefits until they were suspended in July, 2009. Plaintiff
3 died on July 11, 2009. The Social Security Administration contends
4 that plaintiff has no survivors entitled to her benefits and seeks
5 an order of dismissal from this Court.

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7 II. Discussion

8 In a sentence six remand case, the Court retains jurisdiction
9 following the remand. See Melkonyan v. Sullivan, 501 U.S. 89 (1991);
10 Carol v. Sullivan, 802 F.Supp 295, 300 (C.D.Cal. 1992)("[A] sentence
11 six remand, because of clear language in the social security
12 statute, implies and necessarily involves a reservation of the
13 jurisdiction for the future and contemplates further proceedings in
14 the district court and a final judgment at the conclusion thereof. A
15 sentence six remand judgment. . . is therefore always interlocutory
16 and never a 'final' judgment.") (paraphrasing and quoting from
17 Melkonyan).

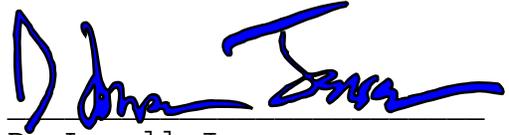
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19 Normally, the parties would move the Court to reopen the case
20 after completion of remand proceedings for the purpose of dismissal
21 or entry of judgment. Here, however, because Plaintiff
22 died before the Court was requested to resolve its sentence six
23 jurisdiction, the Commissioner has requested that the Court reopen
24 and immediately dismiss the action with prejudice, each party to
25 bear its own fees, costs, and expenses.

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27 There being nothing in the record to indicate that such
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1 dismissal is not warranted and no filings before this Court at any
2 time since 1999, good cause appearing, the Court HEREBY
3 ORDERS that this action be DISMISSED WITH PREJUDICE, each party to
4 bear its own fees, costs, and expenses.
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7 IT IS SO ORDERED

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9 Dated: October 11, 2011



D. Lowell Jensen
United States District Judge

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