

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Action No. 09-cv-01955-REB

MELODY M. DAVIS,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of Social Security,

Defendant.

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**ORDER GRANTING DEFENDANT'S UNOPPOSED MOTION  
TO ALTER OR AMEND JUDGMENT UNDER FED.R.CIV.P. 59(e)**

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**Blackburn, J.**

The matter before me is **Defendant's Unopposed Motion To Alter or Amend Judgment Under Fed.R.Civ.P. 59(e)** [#21]<sup>1</sup> filed October 8, 2010. I grant the motion.

The Commissioner asks me to amend my **Order Reversing Disability Decision and Remanding to Commissioner** [#19] filed September 24, 2010, and vacate the related **Judgment** [#20] filed September 28, 2010. The Commissioner does not challenge the determination that remand is appropriate, but simply requests that I specify that the case is remanded under sentence six of 42 U.S.C. § 405(g). Plaintiff does not object to the relief requested.

A sentence-six remand is appropriate where new, material evidence has been adduced, and good cause exists for not having presented the evidence to the agency in

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<sup>1</sup> "[#21]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's electronic case filing and management system (CM/ECF). I use this convention throughout this order.

a prior proceeding. **See *Melkonyan v.***, 501 U.S. 89, 100, 111 S.Ct. 2157, 2164, 115 L.Ed.2d 78 (1991). This case was remanded to allow the Commissioner to determine whether new and material evidence would change the disability determination. (**Order Reversing Disability Decision and Remanding to Commissioner** at 6 [#19] filed September 24, 2010.) Having reviewed the motion and the relevant record, I find good cause to grant the motion and vacate the judgment. **See *Shalala v. Schaefer***, 509 U.S. 292, 297, 113 S.Ct. 2625, 2629, 125 L.Ed.2d 239 (1993) (final judgment is not entered until after the post-remand agency proceedings are complete in sentence-six remand).

**THEREFORE, IT IS ORDERED** as follows:

1. That **Defendant's Unopposed Motion To Alter or Amend Judgment Under Fed.R.Civ.P. 59(e)** [#21] filed October 8, 2010, is **GRANTED**;
  2. That my **Order Reversing Disability Decision and Remanding to Commissioner** [#19] filed September 24, 2010, is **AMENDED** to direct that the Commissioner's final decision is vacated and the case remanded pursuant to sentence six of 42 U.S.C. § 405(g); and
  3. That *per force* the **Judgment** [#20] filed September 28, 2010, is **VACATED**.
- Dated December 23, 2010, at Denver, Colorado.

**BY THE COURT:**



Robert E. Blackburn  
United States District Judge