

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

TONY SELDOMRIDGE,

Plaintiff,

v.

Case No: 5:17-cv-150-Oc-GKS-PRL

**COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

ORDER

This matter is before the undersigned on Defendant's Unopposed Motion to Withdraw Answer and for Remand Under Sentence Six of 42 U.S.C. § 405(g) in which Defendant requests the Court to remand this case so that the Commissioner can take further administrative action. (Doc. 20). Defendant states that Plaintiff has no objection to the Motion to Remand.

Pursuant to sentence six of 42 U.S.C. §405(g) of the Social Security Act, this Court may remand a case to the Commissioner on motion of the Commissioner made for "good cause shown" before filing an answer. Here, the Commissioner has filed an answer, but now seeks to withdraw the answer. And, Plaintiff has no objection. Further, the Commissioner submits that the Appeals Council did not have the entire record before it at the time it issued its decision, and the claimant's files and the administrative transcript were incomplete as contemplated by Congress. The Commissioner submits that the record is incomplete and this constitutes a circumstance under which remand is appropriate under sentence six of 42 U.S.C. § 405(g). The Court agrees. *See Melkonyan v. Sullivan*, 501 U.S. 89, 90 (1991) (observing that a district court may remand a final

decision of the Secretary as provided in sentence six “in light of additional evidence without any substantive ruling as to the correctness of the Secretary's decision.”).


In view of the foregoing, it is **ORDERED** that:

(1) Defendant’s Motion to Withdraw Answer and for Remand (Doc. 20) is **GRANTED**;

(2) This action is **REMANDED** to the Commissioner, pursuant to sentence six of 42 U.S.C. § 405(g), for the Commissioner to take further administrative action, subject to the requirement that the Commissioner provide the Court with status reports every three months regarding the progress of the remand process; and

(3) Because this cause is remanded pursuant to sentence six of 42 U.S.C. § 405(g), the Court shall retain jurisdiction in this matter. Accordingly, the Clerk shall administratively close the file and withhold the entry of a final judgment in this case.

DONE and RECOMMENDED in Ocala, Florida on October 24, 2017.



PHILIP R. LAMMENS
United States Magistrate Judge

Copies furnished to:

Presiding District Judge
Counsel of Record
Unrepresented Parties