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Clerk, U.S. District Court, ILCD

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

FILED
JAN 04 2013
CLERK OF THE COURT
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA, ILLINOIS

JAMES S. HALVORSEN,)
)
Plaintiff,)
)
v.)
)
MICHAEL ASTRUE,)
Commissioner of Social Security,)
)
Defendant.)

Case. No. 2:10-cv-02251

OPINION AND ORDER

This matter is before the Court on the Commissioner’s Unopposed Motion for Relief from Judgment Under Rule 60(b). The record reflects that this matter is currently pending before the United States Court of Appeals for the Seventh Circuit. Accordingly, this Court cannot immediately grant the relief requested. Rather, as the Commissioner recognizes, Seventh Circuit Rule 57 applies:

A party who during the pendency of an appeal has filed a motion under Fed.R.Civ.P. 60(a) or 60(b) . . . should request the district court to indicate whether it is inclined to grant the motion. If the district court so indicates, this court will remand the case for the purpose of modifying the judgment
.....

In accordance with both Fed.R.App.P. 12.1 and Seventh Circuit Rule 57, the Commissioner has requested that this Court indicate whether it is inclined to grant his motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. The basis for such action stems from the fact that the Commissioner now agrees with Mr. Halvorsen that remand for further administrative proceedings is warranted pursuant to 42 U.S.C. § 405(g), thereby justifying relief from the Court’s May 11, 2012 Judgment in accordance with Fed.R.Civ.P. 60(b)(6). *See Brown*

v. *United States*, 976 F.2d 1104, 1110 (7th Cir. 1992) (“[i]n such circumstances we have directed district courts to review such motions promptly, and either deny them or, if the court is inclined to grant relief, to so indicate so that we may order a speedy remand.”).

Having thus reviewed the record, the Court agrees that further administrative proceedings are warranted, and the Court is inclined to grant the relief sought by the Commissioner if the case is remanded by the United States Court of Appeals for the Seventh Circuit for purposes of modifying the judgment.

Entered this 4th day of January, 2013.

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MICHAEL P. MCCUSKEY
United States District Judge

