

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

## **MEMORANDUM AND ORDER**

**HERNDON, Chief Judge:**

This matter is now before the Court on the Parties' Joint Stipulation for Remand. (Doc. 24).

There are only two avenues for remanding a social security case. Remand can be ordered pursuant to sentence four or to sentence six of 42 U.S.C. § 405(g). A sentence four remand depends upon a finding of error, and is itself a final, appealable order. In contrast, a sentence six remand is for the purpose of receipt of new evidence, but does not determine whether the Commissioner's decision as rendered was correct. A sentence six remand is not an appealable order. See, *Melkonyan v. Sullivan*, 501 U.S. 89 (1991); *Perlman v. Swiss Bank Corporation Comprehensive Disability Protection Plan*, 195 F.3d 975, 978 (7th Cir. 1999).

<sup>1</sup> Carolyn W. Colvin was named Acting Commissioner of Social Security on February 14, 2013. She is automatically substituted as defendant in this case. See Fed. R. Civ. P. 25(d); 42 U.S.C. §405(g) ("Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.").

Here, the parties stipulate that this case should be remanded pursuant to sentence four for a de novo hearing and reassessment of the evidence. In accordance with *Schaefer v. Shalala*, 509 U.S. 292, 302-303 (1993), judgment will be entered in favor of plaintiff.

The Court has some concern over the length of time that the minor's application has been pending. The application was filed in August, 2008, and the ALJ issued his decision in August, 2010. (Tr. 35-43). Administrative remedies were not completed until March, 2012, when the Appeals Council denied review. (Tr. 1). While recognizing that the agency has a full docket, the Court urges the Commissioner to expedite this matter to the extent practicable.

For good cause shown, the Parties' Joint Stipulation for Remand (Doc. 24) is **GRANTED**.

The final decision of the Commissioner of Social Security denying the application for social security benefits filed on behalf of Z.B. is **REVERSED and REMANDED** to the Commissioner for rehearing and reconsideration of the evidence, pursuant to sentence four of 42 U.S.C. §405(g).

The Clerk of Court is directed to enter judgment in favor of plaintiff.

**IT IS SO ORDERED.**

**DATED: August 7, 2013**

*David R. Herndon*



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David R. Herndon  
Date: 2013.08.07  
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**Chief Judge**  
**United States District Court**