

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

DUANE R. SPRING,

Plaintiff,

vs.

NO. 13-cv-236-DRH-CJP

COMMISSIONER of SOCIAL SECURITY,

Defendant.

MEMORANDUM AND ORDER

HERNDON, Chief Judge:

This matter is now before the Court on the parties' Joint Stipulation for Remand. (Doc. 16).

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).

Here, the parties stipulate that this case should be remanded pursuant to sentence four because significant portions of the audio recording of the evidentiary hearing are inaudible. In accordance with *Schaefer v. Shalala*, 509 U.S. 292, 302-303 (1993), judgment will be entered in favor of plaintiff.

The Court notes that Mr. Spring applied for benefits in April, 2010, over three years ago. The ALJ issued her decision in October, 2011, but administrative remedies were not completed until January, 2013, when the Appeals Council denied review. (Tr. 18-29, 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. 16) is **GRANTED**.

The final decision of the Commissioner of Social Security denying Duane R. Spring's application for social security benefits 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.

Signed this 8th day of July, 2013.

 Digitally signed by
David R. Herndon
Date: 2013.07.08
16:14:12 -05'00'



**Chief Judge
United States District Court**