

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

HENRY M. SANDOW,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 16-cv-267-JPG-CJP
)	
NANCY A. BERRYHILL, Acting)	
Commissioner of Social Security,)	
)	
Defendant. ¹)	

MEMORANDUM AND ORDER

Before the Court is Defendant’s Motion to Remand to the Commissioner. (Doc. 31). Plaintiff has not responded to the motion, and the time for doing so has now expired. The Court deems the failure to respond to be an indication that plaintiff has no objection. See, SDIL-LR 7.1.

The Commissioner seeks a remand for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). A sentence four remand (as opposed to a sentence six remand) depends upon a finding of error, and is itself a final, 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). Upon a sentence four remand, judgment should be entered in favor of plaintiff. *Schaefer v. Shalala*, 509 U.S. 292, 302-303 (1993).

The Commissioner represents that, upon remand, “Plaintiff will be provided with the opportunity for a hearing and to submit additional evidence and arguments. Additionally, on remand, the ALJ will: (1) reevaluate and consider the evidence of record, including the evidence

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. See, *Casey v. Berryhill*, __ F3d. __, 2017 WL 398309 (7th Cir. Jan. 30, 2017). She is automatically substituted as defendant in this case. See Fed. R. Civ. P. 25(d); 42 U.S.C. §405(g).

submitted at the Appeals Council request for review level; (2) reconsider whether there was a medically determinable impairment during the period at issue; and (3) issue a new decision.”

The Court notes that plaintiff applied for disability benefits in February 2011, more than six years ago. (Tr. 12). While recognizing that the agency has a full docket, the Court urges the Commissioner to expedite this case on remand.

For good cause shown, Defendant’s Motion to Remand to the Commissioner (Doc. 31) is **GRANTED**.

The final decision of the Commissioner of Social Security denying Henry M. Sandow’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.

DATED: 4/7/2017

s/J. Phil Gilbert
J. PHIL GILBERT
U.S. DISTRICT JUDGE