

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

| | | |
|----------------------------------|---|-----------------------------|
| JAMES CLIFFORD, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | CIVIL NO. 16-cv-939-JPG-CJP |
| |) | |
| NANCY A. BERRYHILL, Acting |) | |
| Commissioner of Social Security, |) | |
| |) | |
| Defendant. ¹ |) | |

MEMORANDUM AND ORDER

Before the Court is the parties' Stipulation to Remand to the Acting Commissioner. (Doc. 19).

The parties agree that this case should be remanded to the Acting Commissioner 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 parties agree that, upon remand, "the Appeals Council will direct the ALJ to reevaluate Plaintiff's residual functional capacity finding, describe how the evidence supports the residual functional capacity finding, further evaluate Plaintiff's symptoms and the medical opinion evidence, review any additional medical evidence made available, and if warranted, obtain supplemental vocational expert testimony."

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. See, *Casey v. Berryhill*, ___ F.3d ___, 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).

The Court notes that plaintiff applied for disability benefits in March 2013, more than four years ago. (Tr. 13). While recognizing that the agency has a full docket, the Court urges the Commissioner to expedite this case on remand.

For good cause shown, the parties' Stipulation to Remand to the Acting Commissioner **(Doc. 19)** is **GRANTED**.

The final decision of the Commissioner of Social Security denying James Clifford'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: 4/24/2017

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