

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

NOBLE R. UPCHURCH,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL NO. 16-cv-1272-JPG-CJP
	)	
NANCY A. BERRYHILL, Acting	)	
Commissioner of Social Security,	)	
	)	
Defendant. <sup>1</sup>	)	

**MEMORANDUM AND ORDER**

Before the Court is the parties’ Stipulation for Remand to the Commissioner (Doc. 20). The parties agree that this case should be remanded 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 Corp. 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, 302-03 (1993).

The parties also agreed that, upon remand, “the Commissioner will affirm the finding of disability as of October 24, 2014. For the period prior to October 24, 2014, an Administrative Law Judge (ALJ) will further consider the evidence and reassess Plaintiff’s residual functional capacity. If warranted, the ALJ will consult a vocational expert to assist him in evaluating Plaintiff’s ability to return to his past relevant [work] and/or perform a significant number of jobs in the national economy.”

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<sup>1</sup> Nancy A. Berryhill is now the Acting Commissioner of Social Security. *See* <https://www.ssa.gov/agency/commissioner.html> (visited Feb. 7, 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 December 2013. (Tr. 23.) While recognizing that the agency has a full docket, the Court urges the Commissioner to expedite this case on remand.

For good cause shown, parties' Stipulation for Remand to the Commissioner (Doc. 20) is **GRANTED**.

The final decision of the Commissioner of Social Security denying Noble R. Upchurch's application for social security benefits for the period prior to October 24, 2014, 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: July 18, 2017**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**UNITED STATES DISTRICT JUDGE**