

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

MARGARET ANN BLANKENSHIP,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO. 1:16cv222
)	
NANCY A. BERRYHILL,)	
ACTING COMMISSIONER OF)	
SOCIAL SECURITY,)	
)	
Defendant.)	

OPINION AND ORDER

This matter is before the court on the Commissioner’s “Unopposed Motion for an Indicative Ruling on its Rule 60(b) Motion for Relief From Judgment”, filed on January 19, 2018. Also before the court are Plaintiff’s motion for attorney fees, filed on March 31, 2018, and motion to dismiss, without prejudice, motion for attorney fees, filed on April 16, 2016. Finally, on May 1, 2018, the Commissioner filed an “Unopposed Motion for Relief From Judgment”.

The background facts are as follows. Plaintiff commenced this action pursuant to 42 U.S.C. § 405(g), seeking review of a final decision of the Commissioner. Following briefing by the parties, on June 29, 2017, the Court entered judgment in favor of the Commissioner. On August 28, 2017, Plaintiff filed a timely Notice of Appeal to the United States Court of Appeals for the Seventh Circuit. Upon further consideration, the Commissioner has determined that judgment should be vacated and this matter should be reversed with remand for a new administrative hearing and decision pursuant to sentence four of 42 U.S.C. § 405(g).

Federal Rule of Civil Procedure 60(b)(6) allows the Court to relieve a party from a final order for “any . . . reason justifying relief” Because the Commissioner now agrees that the

case should be reversed with remand for further administrative proceedings, and the Seventh Circuit Court of Appeals has remanded for that purpose, the Commissioner submits that Rule 60(b)(6) relief from the Court's June 29, 2017, judgment is appropriate. The Commissioner states that Plaintiff has been advised of, and agrees with, the nature and substance of this motion.

Accordingly, the motion for indicative ruling [DE 28] and the motion for relief from judgment [DE 33] are both hereby GRANTED. This Court's June 29, 2017 Opinion and Order is hereby VACATED. Further, Plaintiff's motion to dismiss motion for attorney fees [DE 31] is hereby GRANTED, and Plaintiff's motion for attorney fees [DE30] is hereby DISMISSED WITHOUT PREJUDICE.

The decision of the ALJ denying Plaintiff's application for benefits is hereby REMANDED for further proceedings as agreed by the parties herein.

SO ORDERED.

Entered: May 24, 2018.

s/ William C. Lee
William C. Lee, Judge
United States District Court