

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

GRACIE SMITH,

Plaintiff,

v.

Case No. 10-2435-JWL

MICHAEL J. ASTRUE,
Commissioner of the Social Security Administration,

Defendant.

MEMORANDUM AND ORDER

This case comes before the court on the defendant's motion to reverse and remand and for entry of final judgment (Doc. # 12). The plaintiff filed a response to defendant's motion in which she stated she has no objection to defendant's motion and requested the Court to enter a judgment granting the defendant's motion to allow for further development under sentence four of 42 U.S.C. § 405(g). (Doc. # 14).

After reviewing the pleadings filed in this case, the Court finds that reversal of the Commissioner's decision and remanding the case for further development under sentence four of 42 U.S.C. § 405(g) in accordance with this Memorandum and Order is appropriate.

Upon remand, the Administrative Law Judge (ALJ) shall further evaluate plaintiff's intellectual status and consider whether she meets or equals Listing 12.05C. In so doing, the ALJ shall further evaluate whether plaintiff had the required deficits in adaptive functioning existing prior to age 22 because the ALJ did not discount medical evidence of an IQ score of 67 with additional impairments. See 20 C.F.R. Pt. 404, Subpt. P, App. 1, Listing 12.05C.

IT IS THEREFORE ORDERED that defendant's motion to reverse and remand and for entry of final judgment (Doc. # 12) is granted. The decision of the Commissioner is reversed, and the case is remanded under sentence four of 42 U.S.C. § 405(g) or further development of the record as set forth above. The Clerk of the Court is directed to enter final judgment in accordance with Fed. R. Civ. P. 58.

IT IS SO ORDERED this 18th day of November, 2010, at Kansas City, Kansas.

s/ John W. Lungstrum
JOHN W. LUNGSTRUM
United States District Judge

SUBMITTED BY:

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United States Attorney

APPROVED BY:

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