

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

JAMES M. MASSEY

PLAINTIFF

V.

NO. 3:17CV135-JMV

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

FINAL JUDGMENT

This cause is before the court on Plaintiff's complaint for judicial review of a partially unfavorable final decision of the Commissioner of the Social Security Administration denying claims for a period of disability and disability insurance benefits and supplemental security income. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The court, having reviewed the administrative record, the briefs of the parties, and the applicable law, and having heard oral argument, finds as follows:

Consistent with the court's ruling from the bench during a hearing held May 8, 2018, the court finds the ALJ's finding that the claimant experienced medical improvement as of August 1, 2014, and the physical RFC determination for the period beginning August 1, 2014, are not supported by substantial evidence in the record. Specifically, these findings are not supported by evidence of medical improvement related to the claimant's ability to work, e.g., the ALJ did not point to evidence that supports a finding that the claimant no longer had any postural limitations beginning August 1, 2014; nor did the ALJ point to evidence that supports a finding that as of August 1, 2014, the claimant could stand for a total of six hours during a work day. Indeed, the medical evidence for the period beginning August 1, 2014, is largely consistent with

the medical evidence for the period July 5, 2013, through July 31, 2014, the closed period of disability.

On remand, the ALJ must require that the claimant undergo a consultative physical examination and that the examining physician submit a medical source statement that includes a physical residual functional capacity assessment (function-by-function). Prior to this examination, the ALJ must ensure the examiner is provided with all of the claimant's medical records from the current file. If necessary, the ALJ must obtain supplemental vocational expert evidence. The ALJ must consider the new evidence along with all the evidence in the record and render a new decision for the period beginning August 1, 2014.

IT IS, THEREFORE, ORDERED AND ADJUDGED that this case is REVERSED IN PART AND REMANDED for further proceedings.

This, the 14th day of May, 2018.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE