Gibbs v. Berryhill Doc. 23

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI NORTHERN DIVISION

TOMMY A. GIBBS,)
Plaintiff,)
v.))
) Case No. 2:19-CV-00009-SPN
)
)
ANDREW M. SAUL, 1)
Commissioner of Social Security,)
)
Defendant.	

MEMORANDUM OPINION

This case is before the Court on Defendant's Motion to Reverse and Remand the case to Defendant for further administrative action pursuant to sentence four of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g). (Doc. 21). Plaintiff has filed a response stating that he has no objection to the motion. (Doc. 22). The parties have consented to the jurisdiction of the undersigned United States Magistrate Judge pursuant to 28 U.S.C.§ 636(c)(1). (Doc. 8).

On February 12, 2019, Plaintiff filed a Complaint seeking review of Defendant's decision that Plaintiff was not under a disability within the meaning of the Social Security Act. (Doc. 1). Defendant filed his answer and the transcript of the administrative proceedings on April 22, 2019. (Docs. 12, 13). Plaintiff filed a brief in support of the complaint on July 11, 2019. (Doc. 18).

¹ On June 4, 2019, Andrew M. Saul became the Commissioner of Social Security. Pursuant to

Federal Rule of Civil Procedure 25(d), Commissioner Saul is substituted for Nancy A. Berryhill as defendant in this action. No further action needs to be taken to continue this suit by reason of the last sentence of 42 U.S.C. § 405(g).

On September 11, 2019, Defendant filed the instant motion to reverse and remand the case

to the Defendant for further action under sentence four of section 205(g) of the Social Security

Act, which permits the Court "to enter, upon the pleadings and transcript of the record, a judgment

affirming, modifying, or reversing the decision of the Commissioner, with or without remanding

the cause for a rehearing." 42 U.S.C. § 405(g). Defendant represents in his motion that upon review

of the record, agency counsel determined that remand was necessary for further evaluation of

Plaintiff's claim. Upon review of Plaintiff's brief in support of his complaint, Defendant's motion,

and Plaintiff's response, the Court agrees with the parties that this case should be reversed and

remanded pursuant to sentence four of 42 U.S.C. § 405(g).

Accordingly,

IT IS HEREBY ORDERED that the Defendant's Motion to Reverse and Remand (Doc.

21) is **GRANTED**.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that decision of the

Commissioner of Social Security is REVERSED and that this case is REMANDED under

Sentence Four of 42 U.S.C. § 405(g) for reconsideration and further proceedings consistent with

this opinion.

SHIRLEY PADMORE MENSAH

UNITED STATES MAGISTRATE JUDGE

Dated this 16th day of September, 2019.