

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TY MENENDEZ o/b/o
JACK MENENDEZ

Plaintiff,

vs.

MICHAEL J. ASTRUE,
Commissioner of Social Security

Defendant.

)
)
)
)
)
)
)
)
)
)
)

Case No. 4:11CV2182MLM

MEMORANDUM OPINION

This matter is before the court on Defendant’s Motion to Reverse and Remand pursuant to sentence four of 42 U.S.C. § 405(g). [Doc. 17] Plaintiff does not object to Defendant’s Motion. [Doc. 18] The parties have consented to the jurisdiction of the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). [Doc. 7]

This case involves an application for disability insurance benefits under Title II of the Social Security Act (“the Act”). See 42 U.S.C. §§ 401 et seq. Defendant’s Motion states that after careful review of the above-captioned case, Agency counsel requested that the Appeals Council of the Social Security Administration reconsider the Commissioner’s decision in this case. Upon review, the Appeals Council decided that remand was necessary for further evaluation of plaintiff’s impairments and resulting limitations. Upon remand, the Appeals Council will remand the case to an ALJ to reassess the severity of Plaintiff’s alcoholism and, if necessary, perform the proper drug abuse and alcoholism analysis. The ALJ will evaluate whether plaintiff’s impairments met or medically equaled Listing 5.05. If plaintiff does not meet or equal Listing 5.05 or any other listing, the ALJ will obtain testimony from a vocational expert to clarify the effects of the assessed limitations on the claimant’s occupational base.

The court has considered defendant's Motion and plaintiff's lack of opposition and finds that the Motion should be granted. The entry of final judgment reversing and remanding this case will begin the appeal period which determines the thirty (30) day period during which a timely application for attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, may be filed.

Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion to Reverse and Remand is **GRANTED**. [Doc. 17]

IT IS FURTHER ORDERED that a final judgment is entered contemporaneously herewith reversing the decision of the ALJ and remanding this case to the Commissioner of Social Security for further consideration pursuant to sentence four of 42 U.S.C. § 405(g).

IT IS FURTHER ORDERED that the entry of the final judgment will begin the appeal period which determines the thirty (30) period during which a timely application for attorney's fees under the Equal Access to Justice Act may be made.

/s/Mary Ann L. Medler
MARY ANN L. MEDLER
UNITED STATES MAGISTRATE JUDGE

Dated this 31st day of May, 2012.