

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ANDREA BLEA,

Plaintiff,

vs.

NANCY A. BERRYHILL

Defendant.

3:14-cv-00582-RCJ-VPC

## ORDER

On June 23, 2011, Plaintiff protectively filed claims for Social Security Disability

## Insurance and Supplemental Security Income benefits under Titles II and XVI of the Social Security Act

Security Act, respectively. The state agency denied the claims on October 27, 2011 and denied

before an Administrative Law Judge (“ALJ”) of the Social Security Administration (“SSA”).

The ALJ ruled on April 23, 2013, finding that Plaintiff had not been disabled at any time

between June 9, 2010 and the date of the decision. The Appeals Council denied review on

September 18, 2014, and the ALJ's decision became the final decision of the Commissioner.

Plaintiff filed the present Complaint for judicial review in this Court on December 18,

2014. The Commissioner answered, Plaintiff moved to remand, and the Commissioner moved to

affirm. The Magistrate Judge recommended affirmance, and the Court adopted the

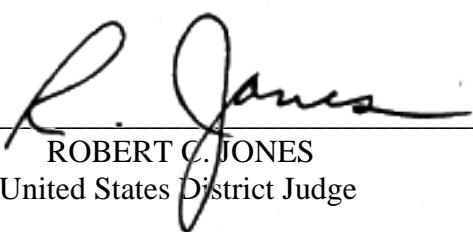
1 recommendation on January 5, 2016. Plaintiff did not appeal but has now asked the Court to  
2 reconsider under Rule 60(b)(6), arguing that she is eligible for a new hearing before the ALJ  
3 according to a recent notification she received from the Commissioner. Specifically, in *Hart v.*  
4 *Colvin*, 3:15-cv-623 (N.D. Cal.), a plaintiff class sued the Commissioner arguing that Dr. Frank  
5 Chen's consultative examination reports were flawed. As part of a settlement, the Commissioner  
6 has agreed to provide new hearings to claimants who were examined by Dr. Chen between  
7 January 1, 2011 and December 31, 2013 and who received unfavorable decisions. Plaintiff  
8 underwent a consultative examination by Dr. Chen on September 30, 2011. The ALJ in this case  
9 noted that she assigned "great weight" to Dr. Chen's assessment, obviating any potential  
10 harmless error issues. The notice sent from the Commissioner to Plaintiff indicates that if she  
11 had filed an appeal to federal court and lost, as here, she had 90 days from the date she received  
12 the notice to file a motion for relief from judgment. The notice is dated September 25, 2017, and  
13 the present motion was timely filed December 20, 2017. The Commissioner has not timely  
14 responded to the present motion.

15 **CONCLUSION**

16 IT IS HEREBY ORDERED that the Motion to Reconsider (ECF No. 26) is GRANTED,  
17 and the case is REMANDED to the SSA for further proceedings consistent with the settlement.

18 IT IS SO ORDERED.

19 Dated this February 14, 2018.

20   
21 ROBERT C. JONES  
22 United States District Judge  
23  
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