

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:15-CV-631-BO

MARK LADNER,)
)
 Plaintiff,)
)
 v.)
)
 CAROLYN W. COLVIN,)
 Acting Commissioner of Social Security,)
)
 Defendant.)

ORDER

This cause comes before the Court on plaintiff's motion for judgment on the pleadings and defendant's motion for remand under sentence four of 42 U.S.C. § 405(g).

DISCUSSION

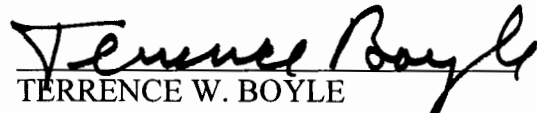
Plaintiff brought this action under 42 U.S.C. §§ 405(g) and 1383(c)(3) for review of the final decision of the Acting Commissioner denying his claim for disability insurance benefits (DIB) pursuant to Title II of the Social Security Act. Defendant has moved to remand the matter to the Acting Commissioner because further fact-finding and analysis is required. Specifically, defendant argues that remand is necessary so that the Administrative Law Judge (ALJ) may properly evaluate the opinion of Dr. Smith, discuss whether plaintiff's impairments meet or equal a Listing of Impairments, and give further consideration to plaintiff's mental residual functional capacity. Plaintiff opposes defendant's motion, arguing that the decision of the Acting Commissioner may be properly reversed at this stage of the proceedings as the ALJ has already considered the medical opinion evidence, and that if the case is remanded it should be remanded with instructions to be assigned to a different ALJ for consideration.

On review, defendant has not made a sufficient showing that remand over plaintiff's objection is appropriate at this time. The matter will thus proceed to oral argument before the undersigned at the Court's next social security term.

CONCLUSION

For the foregoing reasons, defendant's motion for remand [DE 22] is DENIED. This matter will be set for hearing by separate notice.

SO ORDERED, this 23 day of August, 2016.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE