

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL ACTION NO. 1:20-CV-00274-KDB**

RUTH WADDELL GARRISON,

Plaintiff,

v.

**KILOLO KIJAKAZI,
Acting Commissioner of Social Security
Administration,**

Defendant.¹

ORDER

THIS MATTER is before the Court following Plaintiff’s “Motion to Remand,” (Doc. No. 16), in which Plaintiff requests the Court “stay this proceeding for a period of 30 days” to allow the parties to brief a constitutional argument Plaintiff wishes to raise.

Specifically, Plaintiff wishes to challenge the “statutory language appointing the now former Commissioner of Social Security Administration, Andrew M. Saul” as unconstitutional. While Plaintiff should have included any such argument in her motion for summary judgment, she requests the Court give her and the Commissioner an additional month to brief the issue.

The Court has serious questions about the merit of Plaintiff’s potential argument. However, the court will permit Plaintiff seven days to file a brief, not to exceed five pages, addressing this issue. The Court is unlikely to extend this deadline beyond seven days. The Commissioner will respond to Plaintiff’s argument in its motion for summary judgment and will be allotted an additional five pages for its motion.

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted for Andrew Saul as the defendant in this suit.

IT IS THEREFORE ORDERED that Plaintiff shall have seven (7) days from the issuance of this order to file a brief, not to exceed five (5) pages, addressing this constitutional argument.

IT IS FURTHER ORDERED that the Commissioner shall respond to Plaintiff's constitutional argument in her motion for summary judgment and shall be allotted an additional five (5) pages, if needed, for her memorandum in support of her motion for summary judgment to address Plaintiff's constitutional argument.

SO ORDERED.

Signed: July 16, 2021



Kenneth D. Bell
United States District Judge

