

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION

CIVIL CASE NO. 2:11cv51

ERNEST L. HIGDON,)
)
 Plaintiff,)
)
 vs.)
)
 MICHAEL J. ASTRUE,)
 Commissioner of Social Security,)
)
 Defendant.)
 _____)

ORDER OF REMAND

THIS MATTER is before the Court on the Defendant’s Agreed Motion for Entry of Judgment under Sentence Four of 42 U.S.C. Section 405(g) with Reversal and Remand of the Cause to the Defendant [Doc. 15]. As noted, the Plaintiff consents to the motion.

Sentence Four of 42 U.S.C. §405(g) provides, in pertinent part, that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The parties here have moved for reversal of the decision of the Defendant and for remand for further administrative proceedings. Specifically,

the parties seek remand for further development of the record.

Upon remand to the Commissioner, the Appeals Council shall assign this case to a new administrative law judge (ALJ). The Appeals Council will instruct the ALJ to: (1) reassess the Plaintiff's residual functional capacity in order to clarify the limitation concerning the Plaintiff's ability to stand and/or walk; (2) re-evaluate the Plaintiff's credibility; and (3) obtain supplemental evidence from a vocational expert with consideration to all of the limitations of the Plaintiff established by the record.

The Court finds remand is appropriate. Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991).

ORDER

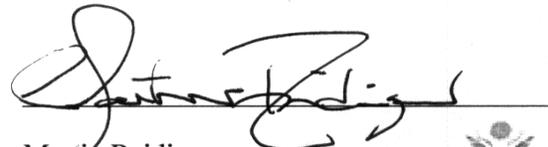
IT IS, THEREFORE, ORDERED that the Defendant's Agreed Motion for Entry of Judgment under Sentence Four of 42 U.S.C. Section 405(g) with Reversal and Remand of the Cause to the Defendant [Doc. 15] is hereby **GRANTED**.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is hereby **REVERSED** and the case is hereby **REMANDED**.

IT IS FURTHER ORDERED that upon remand, the Commissioner shall comply with the directives contained within this Order.

The Clerk of Court shall enter separate Judgment of Remand simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.

Signed: August 2, 2012


Martin Reidinger
United States District Judge

