

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STEVE L. HUGHES,)	
Plaintiff,)	
)	
vs.)	Civil No. 4:13-CV-78-FHM
)	
CAROLYN W. COLVIN,)	
Acting Commissioner,)	
Social Security Administration,)	
Defendant.)	

OPINION AND ORDER

The court hereby grants Defendant’s Unopposed Motion for Voluntary Remand Pursuant to Sentence Four of 42 U.S.C. § 405(g) (#17). Accordingly, the court hereby reverses the final decision of the Commissioner and remands the case to the Commissioner for further proceedings. Under sentence four of 42 U.S.C. § 405(g), a federal district court has the power “to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying or reversing the decision of the Commissioner . . . , with or without remanding the cause for a rehearing.” *See Shalala v. Schaefer*, 509 U.S. 292, 296-97 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991).

Remand of this case is necessary because the Administrative Law Judge (ALJ) deviated from Tenth Circuit caselaw by finding Plaintiff not disabled at step five, relying on the Medical-Vocational Rules, without first explicitly addressing the agency’s borderline-age regulation. Upon remand, the ALJ will afford Plaintiff the opportunity for a *de novo* hearing and render a new decision in accordance with the applicable caselaw and regulations. The ALJ will, if

needed, obtain additional evidence from a vocational expert regarding the existence of jobs in significant numbers in the national economy that Plaintiff can perform.

IT IS SO ORDERED this 30th day of September, 2013.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE