

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MAILON ELLISON,)
Plaintiff) Civil Action
vs.) No. 2008-CV-02101
MICHAEL J. ASTRUE,)
Commissioner of)
Social Security,)
Defendant)
SOCIAL SECURITY ADMINISTRATION)
Interested Party)

O R D E R

NOW, this 30th day of April, 2009, upon consideration of Plaintiff's Motion for Summary Judgment or, in the Alternative, Plaintiff's Motion for Remand, which motion was filed August 26, 2008; upon consideration of Defendant's Response to Request for Review of Plaintiff, which response was filed September 29, 2008; upon consideration of the Report and Recommendation of United States Magistrate Linda K. Caracappa filed February 26, 2009; upon consideration of plaintiff's Complaint, defendant's Answer and after a thorough review of the record in this matter; it appearing that neither party filed objections to Magistrate Judge Caracappa's Report and Recommendation; it further appearing that Magistrate Judge Caracappa's Report and Recommendation correctly determined the legal and factual issues presented in this case,

IT IS ORDERED that Magistrate Judge Caracappa's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that plaintiff's request for review is granted.¹

IT IS FURTHER ORDERED that judgment is entered in favor of plaintiff Mailon Ellison and against defendant Michael J. Astrue, Commissioner of the Social Security Administration.

IT IS FURTHER ORDERED that the decision of the Commissioner dated November 27, 2007 and affirmed by the Appeals Council on March 31, 2008 which denied benefits to plaintiff Mailon Ellison is reversed.

IT IS FURTHER ORDERED that pursuant to sentence four of 42 U.S.C. § 405(g) this matter is remanded to the Commissioner for proceedings consistent with Magistrate Judge Caracappa's Report and Recommendation.

¹ Pursuant to paragraph 3 of the Procedural Order for Social Security Review, plaintiff is required to file and serve "Plaintiff's Brief and Statement of Issues in Support of Request for Review and Motion for Summary Judgment", which plaintiff did on August 26, 2008. I consider paragraph 1 of plaintiff's Complaint in which he "seeks judicial review pursuant to 42 U.S.C. [§] 405(g) of an adverse decision of the defendant" to be a "Request for Review". "Plaintiff's Motion for Summary Judgment" filed August 26, 2008 is no longer a required or appropriate procedure in an action seeking review of a decision by the Commissioner of Social Security denying plaintiff Supplemental Security Income benefits. Accordingly, I am disregarding it.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

/s/ JAMES KNOLL GARDNER

James Knoll Gardner

United States District Judge