

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Tangie Griffin,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 0:14-cv-4149-MGL-PJG
)	
Carolyn W. Colvin, Acting)	
Commissioner of Social Security,)	
)	
<u>Defendant.</u>)	

ORDER TO REMAND PURSUANT TO
SENTENCE SIX OF 42 U.S.C. § 405(g)

The Defendant, Carolyn W. Colvin, Acting Commissioner of Social Security (Commissioner), by her attorney, Marshall Prince, Assistant United States Attorney for the District of South Carolina, has moved this Court, pursuant to sentence six of 42 U.S.C. § 405(g), for an order remanding this case to the Commissioner.

The Commissioner's hearing decision dated July 13, 2013, relies on evidence from the electronic file associated with the Plaintiff's prior application for Title II benefits filed on April 1, 2009 (Decision at 4-27, Exhibits 2F04F, 13F, 14F, 16F, 18F-20F, 22F and 24F). However, the Commissioner's current electronic file associated with the Plaintiff's most recent application for Title II benefits filed on April 26, 2011, does not contain this evidence. When citing to these exhibits in the decision, the Administrative Law Judge (ALJ) indicates that they are from the Plaintiff's "prior file" but the ALJ did not include them in the Decision's "List of Exhibits." At the hearing held on January 31, 2013, the ALJ asked the Plaintiff's representative whether he had any objections to the exhibits of record. The Plaintiff's representative stated that he had no objections and the ALJ admitted all of the exhibits in Sections A through F into the record.

However, in so doing, the ALJ did not mention or address the evidence from the Plaintiff's prior file. As such, the decision relies on evidence not properly made part of the record and the Plaintiff was not given an opportunity to examine or object to that evidence (HALLEX I-2-6-58).

Defendant contacted Plaintiff's counsel, Paul T. McChesney, regarding this motion and Plaintiff does not object.

Pursuant to the power of this Court to enter an order remanding this case under sentence six of 42 U.S.C. § 405(g), and in light of the Commissioner's request for remand of this action for further proceedings, this Court hereby

REMANDS the case to the Commissioner, pursuant to sentence six of 42 U.S.C. § 405(g). It is further,

ORDERED that the Commissioner will remand the claim to an Administrative Law Judge to offer the Plaintiff a supplemental hearing, admit into the current electronic record any evidence he or she determines is material to the issues in the case, provide the Plaintiff the opportunity to review the record, and issue a new decision with an exhibit list reflecting all of the evidence considered.

Signed this 2nd day of March, 2015, in Columbia, South Carolina.

s/Mary G. Lewis
MARY G. LEWIS
UNITED STATES DISTRICT JUDGE