

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SANDRA WALKER,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:10-CV-02243-BF
v.	§	
	§	
COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION,	§	
	§	
Defendant.	§	

MEMORANDUM OPINION AND ORDER

This is a consent case before the United States Magistrate Judge. (Order Feb. 11, 2011.) Sandra Walker (“Plaintiff”) appeals the decision of the Commissioner of the Social Security Administration (the “Commissioner”) denying her applications for Disability Insurance Benefits under Title II of the Social Security Act (the “Act”) and Supplemental Security Income under Title XVI of the Act. Plaintiff filed her brief on May 6, 2011 (doc. 14.), and on June 14, 2011, Defendant filed a Motion to Reverse and Remand (doc. 15).

Defendant acknowledges that the Administrative Law Judge (“ALJ”) improperly refused to honor Plaintiff’s request to cross-examine Dr. Katherine Donaldson, the psychologist who evaluated Plaintiff after the hearing at the direction of the ALJ. In the Fifth Circuit, a claimant has the absolute right to a subpoena to cross-examine an examining physician. *See Lidy v. Sullivan*, 8911 F.2d 1075, 1077 (5th Cir. 1990). This error warrants remand.

Therefore, Defendant’s Motion is GRANTED and, pursuant to the fourth sentence of 42 U.S.C. § 405(g), the Commissioner’s decision is REVERSED and REMANDED for further administrative proceedings. Upon remand, the ALJ is instructed to allow Plaintiff to submit interrogatories to Dr. Donaldson and, if necessary, subpoena Dr. Donaldson at a supplemental

hearing.

SO ORDERED, June 15, 2011.

A handwritten signature in cursive script, appearing to read "Paul D. Stickney", written in black ink. The signature is positioned above a horizontal line.

PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE