UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON

MARK HAVILAND.

Plaintiff,

v.

CAROLYN W. COLVIN, Commissioner of Social Security,

Defendant.

No. 2:15-CV-0299-JTR

REPORT AND RECOMMENDATION TO GRANT STIPULATED MOTION FOR REMAND PURSUANT TO SENTENCE FOUR OF 42 U.S.C. § 405(g)

BEFORE THE COURT is the parties' stipulated motion to remand the above-captioned matter to the Commissioner for additional administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g). ECF No. 17. Attorney Tom Grant Cordell represents Plaintiff; Special Assistant United States Attorney Jennifer Ann Kenney represents Defendant. The parties have not consented to proceed before a magistrate judge in this case. After considering the file and proposed order, **IT IS RECOMMENDED:**

The parties' Stipulation for Voluntary Remand, **ECF No. 17**, be **GRANTED** and the above-captioned case be **REVERSED** and **REMANDED** to the Commissioner of Social Security for further administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

On remand, the administrative law judge (ALJ) shall hold a new hearing, update the evidence of record, and issue a new decision. The ALJ shall:

(1) provide specific reasoning for the weight accorded to all medical opinion evidence of record, in particular the medical opinions of Drs. Drenguis and Duris;

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(2) reconsider all impairments and functional limitations noted of record, with specific attention given to Plaintiff's left shoulder limitations; (3) reevaluate the step three findings, including Listing 12.04, with the assistance of a medical expert; (4) reassess Plaintiff's residual functional capacity (RFC); (5) reexamine Plaintiff's statements and testimony in accordance with SSR 16-3p; and (6) with the assistance of a vocational expert, and ensuring the vocational expert is provided a hypothetical that is consistent with the RFC ultimately determined, reassess steps four and five of the sequential evaluation process to address whether Plaintiff is able to return to his past relevant work or to make a vocational adjustment to other work existing in significant numbers in the national economy.

The ALJ may take any other actions necessary to develop the record, and

The ALJ may take any other actions necessary to develop the record, and Plaintiff may submit additional evidence and present additional argument.

IT IS FURTHER RECOMMENDED Judgment be entered for PLAINTIFF, Plaintiff's Motion for Summary Judgment, ECF No. 13, be STRICKEN AS MOOT, and any application for attorney fees be filed by separate motion.

OBJECTIONS

Any party may object to a magistrate judge's proposed findings, recommendations or report within fourteen (14) days following service with a copy thereof. Such party shall file written objections with the Clerk of the Court, specifically identifying the portions to which objection is being made, and the basis therefor. Any response to the objection shall be filed within fourteen (14) days after receipt of the objection. Attention is directed to Fed. R. Civ. P. 6(d), which adds additional time after certain kinds of service.

A district judge will make a *de novo* determination of those portions to which objection is made and may accept, reject, or modify the magistrate judge's determination. The judge need not conduct a new hearing or hear arguments and may consider the magistrate judge's record and make an independent

determination thereon. The judge may, but is not required to, accept or consider additional evidence, or may recommit the matter to the magistrate judge with instructions. *United States v. Howell*, 231 F.3d 615, 621 (9th Cir. 2000); 28 U.S.C. § 636(b)(1)(B) and (C), FED. R. CIV. P. 72(b)(3); LMR 4, Local Rules for the Eastern District of Washington.

A magistrate judge's recommendation cannot be appealed to a court of appeals; only the district judge's order or judgment can be appealed.

IT IS SO RECOMMENDED. The Clerk of Court is directed to enter this report and recommendation and forward copies to counsel and the assigned district court judge.

DATED September 20, 2016.



JOHN T. RODGERS UNITED STATES MAGISTRATE JUDGE