

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SHARON ELAINE BURLESON,

Plaintiff,

v.

CAROLYN W. COLVIN, in her capacity
as Acting Commissioner of Social Security,

Defendant.

CASE NO. C13-2269RAJ

ORDER

The court has reviewed the Report and Recommendation (“R&R”) of the Honorable James P. Donohue, United States Magistrate Judge. It has also reviewed Plaintiff’s objections to the R&R, the Commissioner’s response to those objections, and Plaintiff’s recent summary judgment motion. As stated below, the court **ADOPTS** the R&R (Dkt. # 25), **DENIES** Plaintiff’s objection (Dkt. # 26) solely to the extent that it requests that the court direct the Social Security Administration to award her benefits, **REVERSES** the Commissioner’s final decision, and **REMANDS** this action to the Social Security Administration for further proceedings consistent with the R&R. The court directs the clerk to **TERMINATE** Plaintiff’s summary judgment motion (Dkt. # 29) and to enter judgment for Plaintiff.

The court concurs wholly with the R&R’s conclusion that the Social Security Administration, both before the administrative law judge who denied Plaintiff’s claim for benefits and on appeal to its Appeals Council, badly mishandled Plaintiff’s claim. Were

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1 it possible to award Plaintiff benefits as a sanction for the Social Security
2 Administration's shabby handling of Plaintiff's claim, this might well be a case in which
3 the court would award this relief. The court cannot, however, award benefits as a
4 sanction. And, as the R&R points out, the record below gives the court no basis to
5 determine if Plaintiff is entitled to disability benefits. Even if the court were inclined to
6 award benefits, the medical record in the skimpy record before the court would not
7 permit the court to reach any conclusions about whether Plaintiff is disabled. *See*
8 *Garrison v. Colvin*, 759 F.3d 995, 1019 (9th Cir. 2014) (noting that courts have exercised
9 power to remand for award of benefits "when it is clear from the record that a claimant is
10 entitled to benefits").

11 From the outset of this appeal, the Commissioner has conceded errors that
12 occurred within the Social Security Administration. The Commissioner's counsel avers
13 that efforts were made to contact Plaintiff to stipulate to a remand, but that those efforts
14 were fruitless. Plaintiff has represented herself without the benefit of an attorney in this
15 appeal, perhaps because she obtained so little benefit from the attorney who represented
16 her in administrative proceedings. Nonetheless, the court concurs with the R&R's
17 recommendation that Plaintiff endeavor to find counsel to assist her as she navigates the
18 Social Security Administration on remand.

19 The court overrules Plaintiff's objection to the extent it requests that the court
20 order an award of benefits. The court also declines to grant her recent summary
21 judgment motion, which seeks the same relief. Although the court can engage in limited
22 fact-finding on a fully-developed administrative record, Congress has declared that the
23 Social Security Administration is responsible for developing that record in the first
24 instance. The court declines to entertain Plaintiff's motion for summary judgment.

25 The court **ADOPTS** the R&R, **REVERSES** the final decision of Defendant, and
26 **REMANDS** this action to the Social Security Administration for further proceedings

1 consistent with the R&R. The clerk shall enter judgment for Plaintiff and ensure that
2 Judge Donohue receives notice of this order.

3 DATED this 9th day of December, 2014.

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7 The Honorable Richard A. Jones
8 United States District Court Judge
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