

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

SUSAN S.,

Plaintiff,

v.

CIVIL ACTION NO. 3:24-0088

LELAND DUDEK,
Acting Commissioner of Social Security,¹

Defendant.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted Findings of Fact and recommended that this Court grant Claimant's request for remand (ECF No. 7), deny the Acting Commissioner's request to affirm the final decision (ECF No. 8), reverse the final decision of the Acting Commissioner, and remand this matter back to the Acting Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further administrative proceedings. No objections to the Magistrate Judge's findings and recommendation have been filed.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and, consistent with the findings and recommendation, **GRANTS**

¹ Leland Dudek became the Acting Commissioner of Social Security on February 16, 2025, and is automatically substituted as a party pursuant to Fed. R. Civ. P. 25(d). *See also* Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g) (stating action survives regardless of any change in the person occupying the office of Commissioner of Social Security).

Claimant's request for remand (ECF No. 7), **DENIES** the Acting Commissioner's request to affirm the final decision (ECF No. 8), **REVERSES** the final decision of the Acting Commissioner, and **REMANDS** this matter back to the Acting Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further administrative proceedings.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: March 11, 2025



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE