



Johnson v. Commissioner of Social Security

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Page 1 of 2 IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS JEFFREY JOHNSON, Plaintiff, v s . MICHAEL J. ASTRUE, Defendant. No. 12-cv-644-DRH-CJP

MEMORANDUM AND ORDER HERNDON, Chief Judge: This matter is now before the Court on the parties' Stipulation to Remand. (Doc. 22). There are only two avenues for remanding a social security case. Remand can be ordered pursuant to sentence four or to sentence six of 42 U.S.C. § 405(g). A sentence four remand depends upon a finding of error, and is itself a final, appealable order. In contrast, a sentence six remand is for the purpose of receipt of new evidence, but does not determine whether the Commissioner's decision as rendered was correct. A sentence six remand is not an appealable order. See, *Melkonyan v. Sullivan*, 501 U.S. 89 (1991); *Perlman v. Swiss Bank Corporation Comprehensive Disability Protection Plan*, 195 F.3d 975, 978 (7 th

Cir. 1999). Here, the parties stipulate that this case should be remanded pursuant to sentence four. In accordance with *Schaefer v. Shalala*, 509 U.S. 292, 302-303 (1993), judgment will be entered in favor of plaintiff.

Page 2 of 2 The Court notes that Mr. Johnson applied for benefits in September, 2009, and the ALJ issued her decision in September, 2011. (Tr. 15-25). Administrative remedies were not completed until March, 2012, when the Appeals Council denied review. (Tr. 1). While recognizing that the agency has a full docket, the Court urges the Commissioner to expedite this matter to the extent practicable. For good cause shown, the parties' Stipulation to Remand (Doc. 22) is GRANTED.

The final decision of the Commissioner of Social Security denying Jeffrey Johnson's application for social security benefits is REVERSED and REMANDED to the Commissioner for rehearing and reconsideration of the evidence, pursuant to sentence four of 42 U.S.C. §405(g).

The Clerk of Court is directed to enter judgment in favor of plaintiff. IT IS SO ORDERED. Signed this 14 th

day of January, 2013.

Chief Judge U n i t e d S t a t e s D i s t r i c t C o u r t

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