

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

DENISE HOPE FRENCH, :
 :
 Plaintiff, :
 :
 vs. : No. 3:11cv913(SRU)(WIG)
 :
 MICHAEL J. ASTRUE, :
 Commissioner of Social Security, :
 :
 Defendant. :
 -----X

ORDER GRANTING DEFENDANT’S MOTION FOR ENTRY OF JUDGMENT
WITH REVERSAL AND REMAND [DOC. # 19]

Defendant, Michael J. Astrue, Commissioner of the Social Security Administration, has moved this Court to enter judgment with a reversal and remand of this cause to the Commissioner. Counsel for Defendant represents that she has contacted Plaintiff’s counsel, Ivan M. Katz, who consents to the relief sought in this motion.

Under sentence four of 42 U.S.C. § 405(g), the Court has the power to enter a judgment with a reversal and remand of the cause to the Commissioner for further proceedings. *See Shalala v. Schaefer*, 509 U.S. 292, 297 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89, 98 (1991). Remand for further development of the record is appropriate when gaps exist in the administrative record or when the administrative law judge (“ALJ”) committed legal error. *See Parker v. Harris*, 626 F.2d 225, 235 (2d Cir. 1980).

Here, the Commissioner has determined, and Plaintiff’s counsel concurs, that remand of this case is necessary for further development of the record and additional administrative action. Upon remand, the Appeals Council will assign the case to an ALJ who will be instructed to conduct a new hearing and issue a new decision. Plaintiff shall be provided the opportunity to

appear at the hearing and submit relevant medical evidence. With the assistance of Plaintiff's counsel, the ALJ will complete the administrative record and ensure that the record includes the June 22, 2010 assessment of Dr. Srinivas Muvvala. Also, the ALJ will give further consideration to Plaintiff's RFC and, in so doing, will evaluate the entire June 22, 2010 opinion of Dr. Muvvala, all of the opinions of William Rush, including the opinions dated November 11, 2008, and June 23, 2009, and the entire March 5, 2009 opinion of Diana Badillo-Martinez, Ph. D. Evidence from a medical expert shall also be obtained to assist the ALJ in determining Plaintiff's RFC and evaluating this opinion evidence. Finally, evidence from a vocational expert shall be obtained if warranted by the expanded record.

Accordingly, the Court hereby GRANTS the Defendant's Assented to Motion for Entry of Judgment Under Sentence Four of 42 U.S.C. § 405(g) with Reversal and Remand of the Cause to the Defendant [Doc. # 19]. Plaintiff's Motion for Order Reversing the Decision of Defendant Commissioner [Doc. # 14] is GRANTED to the extent set forth in this Ruling.

This is not a Recommended Ruling. The parties have consented to the Magistrate Judge's entering a final order in this case without the need for entry of a recommended ruling and review by a District Judge. *See* Fed. R. Civ. P. 73(b).

The Clerk is directed to enter a separate judgment in favor of Plaintiff in this matter under Rule 58(a), Fed. R. Civ. P., to remand this cause to the Commissioner for further administrative proceedings in accordance with this Order, and to close this case.

It is SO ORDERED, this 12th day of March, 2012, at Bridgeport, Connecticut.

/s/ William I. Garfinkel

WILLIAM I. GARFINKEL
United States Magistrate Judge