

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ELIZABETH A. CIACCIA, :
 :
Plaintiff, :
 :
vs. : No. 3:13cv0140(WIG)
 :
CAROLYN W. COLVIN, :
Acting Commissioner of Social Security Administration, :
 :
Defendant. :
-----X

ORDER GRANTING DEFENDANT’S MOTION FOR ENTRY OF JUDGMENT
WITH REVERSAL AND REMAND [DOC. # 24]

Defendant, Carolyn W. Colvin, Acting 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 he has contacted Plaintiff’s counsel, Ivan Katz, Esq., 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 administrative proceedings. Upon remand, the Social Security

Administration's Appeals council will remand the case to a new ALJ. The ALJ will give Plaintiff the opportunity to submit further evidence and the opportunity for a new hearing. The ALJ will further evaluate Plaintiff's residual functional capacity, giving further consideration to the opinions of Plaintiff's treating and examining physicians; and the ALJ will further evaluate Plaintiff's ability to perform work existing in significant numbers, obtaining additional vocational expert testimony if necessary. The ALJ will then issue a new decision.

Accordingly, the Court hereby GRANTS the Defendant's 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. # 24]. Plaintiff's Motion to Reverse the Decision of the Commissioner and to Remand to the Agency [Doc. # 18] is also 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 19th day of November 2013, at Bridgeport, Connecticut.

/s/ William I. Garfinkel

WILLIAM I. GARFINKEL
United States Magistrate Judge