

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MELISSA TORTUELLA, :
 :
 Plaintiff, :
 :
 vs. : No. 3:13cv1250(WIG)
 :
 CAROLYN W. COLVIN, :
 Acting Commissioner, :
 Social Security Administration, :
 :
 Defendant. :
 -----X

ORDER GRANTING DEFENDANT’S CONSENT MOTION FOR ENTRY OF JUDGMENT
WITH REVERSAL AND REMAND [DOC. # 25]

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, Olia Yelner, 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 development of the record and additional administrative proceedings. Upon remand, the Social Security Administration’s Appeals Council will remand

this case to an administrative law judge (“ALJ”), who will give Plaintiff the opportunity to submit additional evidence; reconsider Plaintiff’s residual functional capacity, particularly her manipulative limitations, and, in so doing, further evaluated the opinion evidence from the State agency medical consultants; seek supplemental vocational expert testimony to determine whether there area significant number of jobs in the national economy that Plaintiff can perform; conduct further proceedings to determine if Plaintiff’s substance abuse is a contributing factor material to a finding of disability, *see* Social Security Ruling 13-2p; give Plaintiff an opportunity for a new hearing; and issue a new decision.

Accordingly, the Court hereby GRANTS the Defendant’s Consent 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. # 25]. Additionally, Plaintiff’s Motion to Reverse the Decision of the Commissioner [Doc. # 22] 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 19th day of September, 2014, at Bridgeport, Connecticut.

/s/ William I. Garfinkel

WILLIAM I. GARFINKEL
United States Magistrate Judge