

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

DALPHINE IVONNE BENNETT,
Plaintiff,

v.

ANDREW M. SAUL, Commissioner of
Social Security Administration,
Defendant.

No. 3:19-cv-00363 (JAM)

ORDER REMANDING DECISION OF COMMISSIONER OF SOCIAL SECURITY

Plaintiff Dalphine Ivonne Bennett claims that she is disabled and seeks review of the Commissioner's decision denying her disability benefits.¹ Bennett argues in part that the administrative law judge (ALJ) who heard her claim and who issued an adverse decision was not properly appointed under the Appointments Clause.

In *Suarez v. Saul*, 2020 WL 913809 (D. Conn. 2020), I ruled on highly similar facts that there was a violation of the Appointments Clause and that a disability claimant was not required to have raised or exhausted her Appointments Clause challenge before the ALJ in the first instance. *See also Cirko v. Comm'r of Soc. Sec.*, 948 F.3d 148 (3d Cir. 2020) (same).

Because the same reasoning applies to Bennett, the Court GRANTS the motion to remand the decision of the Commissioner (Doc. #16), and the matter is remanded for a new hearing before a constitutionally appointed ALJ other than the ALJ who presided over her first hearing. The Court DENIES the motion to affirm the decision of the Commissioner (Doc. #18). The Clerk of Court shall close this case.

¹ Pursuant to Fed. R. Civ. P. 25(d), the Clerk of Court shall substitute the Commissioner of Social Security Andrew M. Saul as the defendant in place of Acting Commissioner Nancy A. Berryhill who was initially named as the defendant.

It is so ordered.

Dated at New Haven this 8th day of April 2020.

/s/ *Jeffrey Alker Meyer*

Jeffrey Alker Meyer
United States District Judge