

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

TOMMIE A. WINTERS,

Plaintiff,

v.

**MICHAEL J. ASTRUE,¹
Commissioner of Social Security,**

Defendant.

CIVIL ACTION

No. 06-2346-KHV

ORDER

This matter comes before the Court on Defendant's Motion To Reverse And Remand And For Entry Of Final Judgment (Doc. #14) filed February 12, 2007. For reasons set forth below, the Court sustains the motion.

Defendant argues that the Court should reverse the decision of the Commissioner of Social Security and remand this case for further consideration of plaintiff's disability insurance benefits claim under Title II of the Social Security Act, 42 U.S.C. § 401 et seq.² Under Section 405(g), sentence four,³ the Court may enter "a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." Plaintiff agrees that the Court

¹ Michael J. Astrue became Commissioner of Social Security on February 12, 2007. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Michael J. Astrue is substituted for Jo Anne B. Barnhart as defendant in this suit.

² Defendant notes that the Appeals Council has agreed to voluntarily remand the matter to an Administrative Law Judge for further development once the Court sustains the motion.

³ Section 405(g) provides two distinct mechanisms of remand in sentences four and six respectively, making it necessary to specify a sentence four remand in this case. See Shalala v. Schaefer, 509 U.S. 292, 296-97 (1993).

should reverse the Commissioner's decision and that remand is necessary for the reasons set forth in defendant's memorandum in support of the motion. The Court therefore finds that for substantially the same reasons set forth in defendant's memorandum in support of the motion, the decision of the Commissioner of Social Security in this case is reversed and the case is remanded to the Commissioner for rehearing pursuant to Section 405(g), sentence four.

IT IS THEREFORE ORDERED that Defendant's Motion To Reverse And Remand And For Entry Of Final Judgment (Doc. #14) filed February 12, 2007 be and hereby is **SUSTAINED**. The decision of the Commissioner of Social Security in this case is reversed and the case is remanded to the Commissioner for rehearing pursuant to 42 U.S.C. § 405(g), sentence four.

Dated this 19th day of March, 2007 at Kansas City, Kansas.

s/ Kathryn H. Vratil
Kathryn H. Vratil
United States District Judge