

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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LAURENCE FITZPATRICK,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting  
Commissioner of Social Security,

Defendant.  
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ORDER

13-cv-27-bbc

On January 18, 2013, plaintiff Laurence Fitzpatrick filed a motion under 42 U.S.C. § 405(g), seeking review of the defendant Commissioner's final decision that he was not disabled. On December 31, 2013, following full briefing by the parties, the court entered judgment in favor of the Commissioner. Plaintiff appealed. While the appeal was pending, counsel filed a joint motion under Fed. R. Civ. P. Rule 62.1(1)(3), seeking an indication from this court that it would be inclined to grant relief from the December 31, 2013 judgment should the court of appeals remand the case for that purpose. On September 17, 2014, this court entered such an order. On September 19, 2014, the court of appeals remanded the case under Fed. R. App. P. 12.1 and Cir. R. 57 for a ruling on counsel's joint motion for judgment reversing the Commissioner's decision under sentence four of 42 U.S.C. § 405(g) and remanding the case to the Commissioner. The motion will be granted.

On remand, an administrative law judge will (1) make an explicit finding whether Fitzpatrick's work as a claims representative is past relevant work under 20 C.F.R. §

404.1520 and provide an explanation for that finding, unless the classification of that work is not material to the outcome of the case; (2) further consider and explain the weight given to the medical opinions of record, including the opinions of treating neurologist Dr. Hutter and the state agency reviewing psychologists, pursuant to 20 C.F.R. § 404.1527; (3) further consider any limitations Fitzpatrick might have in the areas of concentration, persistence or pace, and expressly account for any such limitations in the residual functional capacity finding and in any hypothetical questions to a vocational expert; (4) further consider whether Fitzpatrick's impairments would cause him to be absent from work, explain the basis for that finding and, if necessary, obtain appropriate testimony from a vocational expert about the effect of work absences on the ability to perform any jobs identified by the expert in response to a hypothetical question; and (5) further consider and explain the weight given to disability determinations made by the Office of Personnel Management and the Department of Veterans' Affairs, consistent with Social Security Ruling 06-03p.

#### ORDER

IT IS ORDERED that the Commissioner's decision in this case is REVERSED. The case is REMANDED to the Commissioner.

Entered this 22d day of September, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge