

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LARRY VALIANT,

Plaintiff,

V.

MICHAEL J. ASTRUE, Commissioner
of Social Security,

Defendant.

No. 4:09CV751RWS

MEMORANDUM AND ORDER

This matter is before me on a Report and Recommendation to deny Defendant Commissioner's motion to reverse and remand and grant Defendant Commissioner an additional thirty days to file his Brief in Support of his Answer. Defendant Commissioner filed an objection wherein he stated that he does not wish to provide additional briefing and wishes to rely on the arguments he previously made.

This matter was referred to United States Magistrate Judge Frederick R. Buckles for a Report and Recommendation pursuant to 28 U.S.C. § 636(b). On November 9, 2009, Defendant Commissioner moved to remand the case for the limited purpose of allowing the administrative law judge to obtain vocational expert testimony regarding Plaintiff Larry Valiant's ability to perform other work

that exists in significant numbers in the national economy. On November 16, 2009, Valiant filed his response in which he agreed that remand was appropriate for the reason cited by Defendant Commissioner, but argued that remand was also necessary for other reasons. On March 18, 2010, Defendant Commissioner filed his reply.

Judge Buckles issued a Report and Recommendation on March 31, 2010 that recommended that the Commissioner's motion to reverse and remand be denied and that the Commissioner be granted thirty days to respond to all of Valiant's claims. Defendant Commissioner objected to Judge Buckles' recommendation that he be provided an additional opportunity to respond to Valiant's claims. The Commissioner stated that he has "fully addressed Plaintiff's arguments" and considers the matter "ripe for a decision by the Court and no additional briefing should be required at this time."

After having conducted a de novo review, I agree that Defendant Commissioner's motion for a limited remand should be denied and that all of Valiant's claims should be resolved during one step of the judicial review process instead of through incremental determination. I will also sustain Defendant Commissioner's objection that he not be required to file an additional brief and will consider the matter taken as submitted.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate Judge Buckles [#20] is **SUSTAINED, ADOPTED AND INCORPORATED** herein as to Judge Buckles' decision to deny the Commissioner of Social Security's motion to remand.

IT IS FURTHER ORDERED that Defendant Commissioner's motion to remand [#16] is **DENIED**.

IT IS FURTHER ORDERED that Defendant Commissioner is not required to file an additional brief, and the matter is taken as submitted.

Dated this 20th Day of April, 2010.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE