

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 18-cv-62106-BLOOM/Valle

PIA GAGLIARDI,

Plaintiff,

v.

SOCIAL SECURITY ADMINISTRATION,

Defendant.

ORDER ON REMAND

THIS CAUSE is before the Court on remand from the United States Court of Appeals for the Eleventh Circuit in light of *Carr v. Saul*, 141 S. Ct. 1352 (2021). As directed by the Eleventh Circuit and for the reasons set forth below, the Court’s Order, ECF No. [38], is vacated and the case is remanded to the Social Security Administration for further proceedings.

On September 6, 2018, Plaintiff initiated this action, seeking judicial review of the Social Security Administration’s (“SSA”) decision to deny Plaintiff’s application for benefits. ECF No. [1]. During the district court proceedings, Plaintiff raised an Appointments Clause challenge to the administrative law judge (“ALJ”) who presided over her administrative hearing. *See* ECF No. [30]. The Court ultimately found that Plaintiff could not raise an Appointments Clause claim that had not been first raised in a SSA administrative proceeding and rejected Plaintiff’s challenges to the SSA’s decision. ECF No. [38]. Thereafter, Plaintiff timely filed a Notice of Appeal. ECF No. [39].

Pending appeal, the United States Supreme Court in *Carr v. Saul*, 141 S. Ct. 1352 (2021), determined that social security claimants may challenge the constitutionality of an ALJ’s appointment for the first time in federal court. *Id.* at 1356. Specifically, the Court noted that “no

statute or regulation obligated petitioners to raise their Appointments Clause challenges in administrative proceedings” and declined to “impose a judicially created issue-exhaustion requirement in these cases.” *Id.* at 1358.

In light of the Court’s decision in *Carr*, Defendant filed a Consent Motion for Vacatur and Remand to the District Court (“Motion”), requesting that the Eleventh Circuit “vacate the district court’s judgment and remand for further proceedings consistent with *Carr*, so that [Plaintiff] can obtain a new hearing before a different, properly-appointed ALJ.” Mot. at 6. On June 22, 2021, the Eleventh Circuit granted the Motion for Vacatur and Remand. ECF No. [40] (“Mandate”).

Accordingly, consistent with the Eleventh Circuit’s Mandate, it is **ORDERED AND ADJUDGED** that the Court’s Order, **ECF No. [38]**, is **VACATED**. This cause is **REMANDED** to the Social Security Administration, pursuant to Sentence Four of 42 U.S.C. § 405(g), for further proceedings.

DONE AND ORDERED in Chambers at Miami, Florida, on June 23, 2021.



BETH BLOOM
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of Record