

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT BOWLING GREEN
CIVIL ACTION NO. 1:09CV111-J

DARYL KOERNER

PLAINTIFF

VS.

MICHAEL J. ASTRUE,
Commissioner of Social Security

DEFENDANT

MEMORANDUM OPINION

This case presents plaintiff's challenge to the decision of the defendant regarding his claim to disability benefits. Upon referral from the undersigned, United States Magistrate Judge King reviewed the record and the arguments of the parties, and recommended that the matter be remanded for further administrative proceedings. Defendant filed timely objections. After conducting a de novo review of the matters subject to specific written objection, the Court is of the opinion that the recommendation of the Magistrate Judge should be adopted and the matter remanded for further proceedings.

Central to the decision herein is the June 2008 report of Dr. El-Naggar, who examined Mr. Koerner on a single occasion, and who studied the MRI images. The ALJ rejected the opinion as irrelevant because it was rendered a year and a half after the expiration of Mr. Koerner's insured status. The Commissioner does not dispute the principle that medical evidence *may* be relevant, even if it comes into existence after expiration of insured status; however, the Commissioner argues that in this case, Dr. El-Naggar's opinion is not relevant because there is nothing to support the claim that the C-7 condition existed prior to the date last insured. After examining the record, the Court agrees with the Magistrate Judge that the nature of the complaints prior to expiration of

insured status is consistent with the impairment identified by Dr. El-Naggar, such that the opinion is relevant evidence.

Having examined the record, the Court finds the United States Magistrate Judge's legal and factual analysis accurate and succinct, and this Court need not repeat that same analysis. For the foregoing reasons, the recommendation of the Magistrate Judge is adopted.