

**IN THE DISTRICT COURT OF THE UNITED STATES  
 FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
 CHARLOTTE DIVISION  
 3:10cv328**

**WILLIAM A. PACK,** )  
 )  
**Plaintiff,** )  
 )  
**Vs.** )  
 )  
**MICHAEL J. ASTRUE,** )  
**Commissioner of Social Security,** )  
 )  
**Defendant.** )  
 )  
 \_\_\_\_\_ )

**MEMORANDUM  
 OF DECISION**

**THIS MATTER** is before the court on the plaintiff’s Motion for Summary Judgment (#9) and defendant’s Motion for Judgment on the Pleadings (#13) and the Memorandum and Recommendation (#14) of Honorable David S. Cayer, United States Magistrate Judge, regarding the disposition of those motions.

Pursuant to 28, United States Code, Section 636(b), Judge Cayer was designated to consider these pending motions in the above captioned action and to submit to this Court a recommendation for the disposition of these motions. On February 25, 2011, Judge Cayer entered the Memorandum and Recommendation containing proposed conclusions of law in support of his recommendation concerning such motions. The parties were advised that any objections to the Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The

period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After careful review of Judge Cayer's well reasoned Memorandum and Recommendation, the court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the court hereby **ACCEPTS** Judge Cayer's recommendation that the Commissioner's Motion for Judgment on the Pleadings be denied and that the plaintiff's Motion for Summary Judgment be allowed.

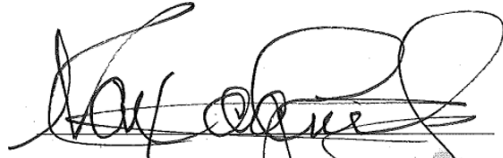
### **ORDER**

**IT IS, THEREFORE, ORDERED** that the Commissioner's Motion for Judgment on the Pleadings (#13) is **DENIED**, and that plaintiff's Motion for Summary Judgment (#9) is **GRANTED**.

**IT IS FURTHER ORDERED** that pursuant to Sentence Four of 42 U.S.C. § 405, which provides for enter a judgment affirming, modifying or reversing the decision of the Commissioner, the decision of the Commissioner is respectfully **REVERSED**, and this case is hereby **REMANDED** to the Commissioner for a new hearing consistent with this Order and Judge Cayer's Memorandum and Recommendation.

A judgment consistent with this Memorandum and Decision shall be entered simultaneously herewith.

Signed: March 17, 2011

A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", written over a horizontal line. The signature is stylized with large loops and flourishes.

Max O. Cogburn Jr.  
United States District Judge