

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10cv524**

KIMBERLY NEELEY,)
)
 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); the defendant’s Motion for Reversal and Remand Pursuant to Sentence Four of 42 U.S.C. § 405(g) (#10); the defendant’s Amended Motion for Entry of Final Judgment Under Sentence Four of 42 U.S.C. § 405(g) with Reversal and Remand of the Cause to the Defendant (#13); and on the Recommendation of the 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 July 15, 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.

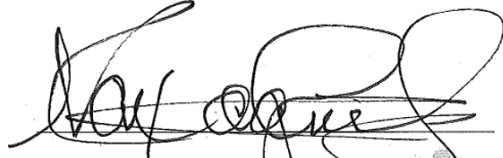
ORDER

IT IS, THEREFORE, ORDERED that the plaintiff's Motion for Summary Judgment (#9) and the defendant's Motion for Reversal and Remand Pursuant to Sentence Four of 42 U.S.C. § 405(g) (#10) are both **DENIED** as **MOOT**.

IT IS FURTHER ORDERED that the defendant's Amended Motion for Entry of Final Judgment Under Sentence Four of 42 U.S.C. § 405(g) with Reversal and Remand of the Cause to the Defendant for consideration of new and material evidence with respect to Defendant's subsequent decision to allow benefits (#13) is **GRANTED**.

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

Signed: August 11, 2011

A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", written in a cursive style with several loops and flourishes.

Max O. Cogburn Jr.
United States District Judge