

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES WESLEY PICKETT,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:10cv273-MHT-WC
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff initiated this action on March 26, 2010, by filing a Complaint (Doc. #1). On April 4, 2010, this court granted Plaintiff’s request to proceed *in forma pauperis*, and ordered Plaintiff to file a brief in support of his claims within forty days of Defendant’s filing of his answer. Order (Doc. #3). Defendant filed his answer on July 1, 2010. Answer (Doc. #10). Accordingly, Plaintiff’s brief was due on or before August 10, 2010. However, Plaintiff failed to file a brief. On August 30, 2010, this court entered an Order instructing Plaintiff to file a brief in support of his claims. Order (Doc. #11). Without a brief, the court is unable to discern Plaintiff’s claims.¹

In the Order of August 30, 2010, this court warned Plaintiff “that failure to file a brief will be taken as abandonment of his claim and will result in this court recommending that

¹ Plaintiff’s Complaint does not adequately provide the court or Defendant with information about Plaintiff’s possible claims. This is why the court Ordered that Plaintiff file a brief specifically setting forth each claim and advised that “general statements of issues such as ‘the ALJ’s decision is not supported by substantial evidence’ will not be considered by the court.” Order (Doc. #3) n.1.

[Plaintiff's] case be dismissed.” *Id.* at 1-2. Plaintiff failed to file a brief and has failed to respond to the orders of this court. Accordingly, the court finds that Plaintiff has abandoned this case.

For these reasons, the Magistrate Judge RECOMMENDS that this case be DISMISSED.

It is further

ORDERED that the parties are DIRECTED to file any objections to the said Recommendation **by December 1, 2010**. Any objections filed must specifically identify the findings in the Magistrate Judge’s Recommendation objected to. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge’s report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); *see also Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982); *see also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (*en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981).

DONE this 17th day of November, 2010.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE