

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

JOHNNIE L. RUTH

PLAINTIFF

v.

No. 4:10-cv-292-DPM

**MICHAEL J. ASTRUE, Commissioner,
Social Security Administration**

DEFENDANT

ORDER

The Court reverses and remands. The ALJ's opinion is careful and thorough. But one error undermines the whole. The ALJ found that Ruth's anxiety disorder was a severe impairment; the hypothetical put to the vocational expert, however, omitted any reference to Ruth's anxiety or his trouble dealing with other people. A corrections officer or security guard must deal with others to some degree.

Without a complete hypothetical, the vocational expert's opinion about Ruth's ability to do his former job notwithstanding all his impairments loses evidentiary power. *Hinchey v. Shalala*, 29 F.3d 428, 432 (8th Cir. 1994). And without that opinion in the balance, the substantialness of the evidence

supporting the Commissioner's no-disability determination is in some doubt. *Cunningham v. Apfel*, 222 F.3d 496, 500 (8th Cir. 2000) (standard of review). The Court therefore reverses the administrative decision and remands for reconsideration; this is a "sentence four" remand within the meaning of 42 U.S.C. § 405(g) and *Melkonyan v. Sullivan*, 501 U.S. 89 (1991).

So ordered.



D.P. Marshall Jr.
United States District Judge

9/26/2011