

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

ROBERT J. MCCLELLAND

PLAINTIFF

v.

Civil No. 08-5070

MICHAEL J. ASTRUE, Commissioner  
Social Security Administration

DEFENDANT

**O R D E R**

Now on this 8<sup>th</sup> day of May, 2009, comes on for consideration the Report and Recommendation issued by the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas on October 15, 2008. (Doc. 17.) The Magistrate Judge recommended remanding the matter pursuant to sentence six of 42 U.S.C. § 405(g), as plaintiff's claim file and the recording of the hearing before the ALJ could not be located.

Plaintiff filed Objections to the Report and Recommendation and a Motion for Interim Benefits and Preference Upon Remand. (Docs. 19, 21.) The latter motion was referred back to the Magistrate Judge. On April 17, 2009, the Magistrate Judge issued a Report and Recommendation recommending that the motion for interim benefits and preference upon remand be denied. Plaintiff has not filed any objections to this Report and Recommendation.

The Court has reviewed this case *de novo* and, being well and sufficiently advised, finds as follows:

\* Plaintiff's objections offer neither law nor fact requiring departure from the **Report and Recommendation (Doc. 17)**

issued on October 15, 2008, and the same should be, and it hereby is, **adopted in toto.**

Accordingly, this matter is remanded to the Commissioner for further administrative action pursuant to sentence six of 42 U.S.C. § 405(g).

\* The **Report and Recommendation (Doc. 25)** issued on April 17, 2009, is proper and is hereby **adopted in its entirety.** Accordingly, plaintiff's **Motion for Interim Benefits and Preference Upon Remand (Doc. 19)** is hereby **DENIED.**

IT IS SO ORDERED.

/S/JIMM LARRY HENDREN  
JIMM LARRY HENDREN  
UNITED STATES DISTRICT JUDGE