

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior Judge Zita L. Weinshienk

Civil Action No. 08-cv-01252-ZLW

CHRISTOPHER HARMON,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of Social Security,

Defendant.

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ORDER

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This matter was before the Court on April 23, 2009, for oral argument on Plaintiff's appeal from the Administrative Law Judge's (ALJ) decision dated October 11, 2007. The Court heard the arguments and statements of counsel, and made oral conclusions of law which are incorporated herein by reference as if fully set forth.

The Court finds that there is no evidence from any medical expert prior to September, 2006 that Plaintiff was disabled. For example, in April of 2006 Dr. Smith, the only medical expert to ever classify Plaintiff as fully disabled, expressed his opinion that Plaintiff could still work up to 30 hours a week. (R. 187). It was not until a letter dated September, 2006, that Dr. Smith indicated that he believed Plaintiff was no longer able to work. (R. 168-69). Therefore, on remand, the ALJ should reanalyze Plaintiff's case with a disability onset date of September, 2006 rather than February, 2006.

Accordingly, it is

ORDERED that the decision of the Administrative Law Judge is reversed. It is FURTHER ORDERED that this case is remanded to the Administrative Law Judge for reconsideration under Sentence Four of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), consistent with the Court's findings and conclusions. It is

FURTHER ORDERED that on remand the ALJ is instructed to provide the necessary narrative discussion required by 20 C.F.R. § 404.1527, 20 C.F.R. § 416.927, and SSR 96-8p as to what opinions are used to formulate the RFC, why those opinions are used, what weight is subsequently given to the treating physicians' opinions (particularly Dr. Smith), and discussion, if appropriate, as to why a non-examining physician's opinion should be adopted over a treating source's opinion. It is

FURTHER ORDERED that the ALJ only needs to analyze disability from an onset date of September, 2006.

DATED at Denver, Colorado this 29<sup>th</sup> day of April, 2009.

BY THE COURT:



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ZITA L. WEINSHIENK, Senior Judge  
United States District Court