

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RICHARD JONES, III,

Plaintiff,

v.

CASE NO. 8:09-CV-1945-T-17TGW

MICHAEL J. ASTRUE,
Commissioner of Social
Security,

Defendant.

ORDER

This cause is before the Court on:

Dkt. 17 Report and Recommendation

In the Complaint, Plaintiff Richard Jones, III seeks judicial review of the denial of Plaintiff's claims for Social Security disability benefits and supplemental security income payments. The assigned Magistrate Judge has entered a Report and Recommendation in which it is recommended that the decision be reversed and this matter remanded for further consideration.

In the Report and Recommendation, the assigned Magistrate Judge concluded that the Administrative Law Judge discounted the opinions of Plaintiff's treating physicians without good cause. On remand, the Commissioner must give substantial weight to the opinions of at least one of the treating physicians as to Plaintiff's functional limitations; however, the Commissioner is not precluded from giving greater weight to the opinion of an examining physician who conducts a new consultative examination, or to a medical expert who testifies at a hearing, if that is warranted and reasonably explained.

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The assigned Magistrate Judge sustained the Commissioner's position as to the side effects of medication, and found that any ruling on Plaintiff's credibility or the use of a vocational expert was pretermitted as both issues could change in the new decision on remand.

The Court has independently reviewed the pleadings and the administrative record. No objections to the Report and Recommendation have been filed. After consideration, the Court adopts the Report and Recommendation, and incorporates it herein. Because the decision of the Commissioner is not supported by substantial evidence, the Court reverses the decision, and remands this case for further proceedings. Accordingly, it is

ORDERED that the Report and Recommendation (Dkt. 17) is **adopted and incorporated by reference**. The decision of the Commissioner of Social Security denying Social Security disability benefits and supplemental security income is **reversed** and this case is **remanded for further consideration**. The Clerk of Court shall enter a final judgment in favor of Plaintiff Richard Jones, III, and against Michael J. Astrue, Commissioner of Social Security, and close this case.

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DONE AND ORDERED in Chambers, in Tampa, Florida on this
18th day of October, 2010.



ELIZABETH A. KOVACHEVICH
United States District Judge

Copies to:
All parties and counsel of record