

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

MARK K. LEE,
Plaintiff,

v.

Case No: 1:05cv153/MMP/EMT

MICHAEL J. ASTRUE,
Commissioner of the
Social Security Administration,
Defendant.

REPORT AND RECOMMENDATION

This action was initiated under the Social Security Act to obtain judicial review of a final decision of the Commissioner of the Social Security Administration (“Commissioner”) denying Plaintiff’s claim for benefits (*see* Doc. 1). The case was subsequently remanded to the Commissioner upon motion by the Defendant for further administrative proceedings (Docs. 20–22). Upon remand, Plaintiff was found eligible for benefits in a favorable Administrative Law Judge decision dated November 26, 2008 (*see* Doc. 55 at 1).

The Commissioner now moves for the entry of a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure, noting that the “[e]ntry of final judgment will begin the appeal period which determines the 30-day period during which a timely application for attorney fees may be made under the Equal Access to Justice Act (EAJA)” (*id.*). The Commissioner has certified that Plaintiff has no objection to the instant motion (*id.* at 2). Good cause having been shown, it is the recommendation of the undersigned that the Commissioner’s motion be granted.

In view of the foregoing, it is respectfully **RECOMMENDED** that:

1. Defendant's Motion for Final Judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure (Doc. 55) be **GRANTED**.

2. The clerk be directed to enter final judgment.

At Pensacola, Florida, this 8th day of December 2008.

/s/ Elizabeth M. Timothy _____

ELIZABETH M. TIMOTHY

UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

Any objections to these proposed recommendations must be filed within ten days after being served a copy hereof. Any different deadline that may appear on the electronic docket is for the court's internal use only, and does not control. A copy of any objections shall be served upon any other parties. Failure to object may limit the scope of appellate review of factual findings. See 28 U.S.C. § 636; United States v. Roberts, 858 F.2d 698, 701 (11th Cir. 1988).