

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

THEOLA HENDERSON, on behalf
of NEVELL THOMPSON, Jr.,

Plaintiff,

v.

CASE NO. 1:08-cv-00158-MP-AK

MICHAEL J ASTRUE,

Defendant.

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ORDER

This matter is before the Court on Doc. 17, Report and Recommendation of the Magistrate Judge, recommending that the decision of the Commissioner, denying benefits, be affirmed. The time for filing objections has passed, and none have been filed.

Having reviewed the file and the Report and Recommendation, the Court agrees that the decision of the Commissioner should be affirmed. Plaintiff was found disabled from 1993 through 2002, due to myasthenia gravis. In 2002, his doctors found that the effects of that condition no longer rendered him disabled. The Commissioner terminated his benefits after that finding. Counsel now argues that Plaintiff's benefits should not have been terminated because recent IQ test scores show that Plaintiff is mentally retarded, and that the combination of the low scores and the effects of myasthenia gravis rendered the Plaintiff disabled.

The Court disagrees. Despite Plaintiff's low test scores, he reported to the ALJ that he was in the band at school, participates in a martial arts class, completes his homework and chores, and gets along with other children. (R. 344-354). The ALJ properly explained the reasons he found the IQ test scores to be invalid and made appropriate reference to the record to support

these reasons. Further, even if the test scores were found to be valid, Plaintiff fails to meet the other requirements of Listing 112.05, in that the physical impairment for which he was initially awarded disability benefits (myasthenia gravis) has resolved. Also, the ALJ specifically found no marked limitations in any of the functional domains, also referencing the record to support these findings.

Accordingly, substantial evidence on the record supports the ALJ's decision that Plaintiff was not disabled as described in the Act, and it is hereby

ORDERED AND ADJUDGED:

1. The Report and Recommendation of the Magistrate Judge is adopted and incorporated herein.
2. The decision of the Commissioner, denying benefits, is affirmed.

DONE AND ORDERED this 9th day of March, 2010

s/Maurice M. Paul
Maurice M. Paul, Senior District Judge