

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

PHILLIP DWAYNE JACKSON,
Plaintiff,

vs.

CASE NO.: 3:09cv218/MCR/MD

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

REPORT AND RECOMMENDATION

This case is before the court upon plaintiff's complaint filed pursuant to 42 U.S.C. § 405(g) seeking judicial review of a final decision of the Commissioner of Social Security denying plaintiff's claim for benefits. Pending is the defendant's motion to remand pursuant to sentence four of § 405(g) (doc. 22). The plaintiff does not oppose the motion according to the certification of the defendant.

Pursuant to sentence four of 42 U.S.C. § 405(g), the court may "enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the [Commissioner], with or without remanding the cause for a rehearing." The Commissioner of Social Security states that remand is appropriate so the ALJ can be directed to re-evaluate plaintiff's case at step two of the sequential disability evaluation under the provisions of Section 12.05C of the Commissioner's listing of impairments, located at 20 C.F.R. Part 404, Subpart P, Appendix 1. If necessary, the ALJ will obtain evidence from a medical expert. Good cause has been shown for remand.

Accordingly, it is RECOMMENDED as follows:

1. That the defendant's motion to remand (doc. 22) be GRANTED and the Commissioner's decision denying benefits be REVERSED.

2. That this case be remanded to the Commissioner of Social Security pursuant to sentence four of 42 U.S.C. § 405(g).

3. That defendant be ordered to direct the Administrative Law Judge to re-evaluate plaintiff's case at step two of the sequential disability evaluation under the provisions of Section 12.05C of the Commissioner's listing of impairments, located at 20 C.F.R. Part 404, Subpart P, Appendix 1. If necessary, the ALJ will obtain evidence from a medical expert.

4. That the clerk be directed to enter judgment for plaintiff and close the file.

DONE AND ORDERED this 5th day of February, 2010.

/s/ *Miles Davis*

MILES DAVIS
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

Any objections to these proposed findings and recommendations must be filed within fourteen days after being served a copy thereof. 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 objections shall be served upon the magistrate judge and all 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).