

**CLOSED  
CIVIL  
CASE**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

Case No. 08-23007-CIV-GRAHAM/DUBE

AARON BETHEL,

Plaintiff,

vs.

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

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**ORDER**

**THIS CAUSE** came before the Court upon the Report of the Magistrate Judge regarding Plaintiff Aaron Bethel's Petition for Writ of Mandamus [D.E. 1], Motion to Hear and Rule [D.E. 7] and Motion to Compel [D.E. 19]; and Defendant's Motion to Dismiss [D.E. 24].

**THIS MATTER** was initiated when pro se Plaintiff Aaron Bethel filed a petition for Writ of Mandamus seeking payment for a fully favorable decision by the Social Security Administration regarding a Supplemental Security Income ("SSI") claim. The Plaintiff then filed a Motion to Hear and Rule on the Writ of Mandamus [D.E. 7] and a Motion to Compel [D.E. 19]. In response, Defendant filed a Motion to Dismiss asserting that the petition failed to state a claim for mandamus. The matter was assigned to the Honorable United States Magistrate Judge Robert L. Dube pursuant to the Clerk's

Order [D.E. 3].

The Magistrate Judge issued a Report [D.E. 25] finding that Plaintiff failed to demonstrate that a nondiscretionary duty was in fact owed to him by the Defendant and failed to show or even allege that he had exhausted all remedies prior to the filing of this action. In response, Plaintiff has filed a Motion to Object and Motion for Rehearing on Magistrates Report and Recommendation [D.E. 27]. In the former, Plaintiff informs the Court that he has exhausted all remedies and other avenues of relief prior to filing the instant mandamus relief. However, while Plaintiff has alleged exhaustion of all remedies, this Court agrees that Plaintiff has failed to demonstrate that a nondiscretionary duty was owed to him by the Defendant.

**THE COURT** has conducted a de novo review of the file and is otherwise fully advised in the premises.

Accordingly, it is hereby

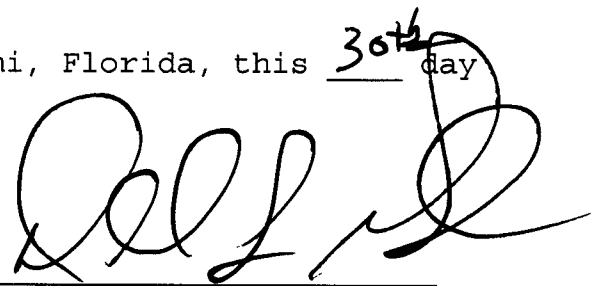
**ORDERED AND ADJUDGED** that United States Magistrate Judge Dube's Report [D.E. 25] is **RATIFIED, AFFIRMED and APPROVED** in its entirety. It is further

**ORDERED AND ADJUDGED** that Defendant's Motion to Dismiss is **GRANTED** [D.E.24]. It is further

**ORDERED AND ADJUDGED** that Plaintiff's Petition for Writ of Mandamus [D.E. 1], Motion to Hear and Rule [D.E. 7], and Motion to Compel [D.E.19] is **DENIED**. It is further

ORDERED AND ADJUDGED that this case is CLOSED and any pending motions are denied as MOOT.

DONE AND ORDERED in Chambers at Miami, Florida, this 30<sup>th</sup> day of December, 2009.



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DONALD L. GRAHAM  
UNITED STATES DISTRICT JUDGE

cc: U.S. Magistrate Judge Dube  
Aaron Bethel, pro se  
All Counsel of Record