

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

SHEILA WHITTINGTON,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner,
Social Security Administration,

Defendant.

CASE NO.: 1:10-CV-131 (WLS)

ORDER

Before the Court is a Report and Recommendation from United States Magistrate Judge Thomas Q. Langstaff, filed February 13, 2012. (Doc. 29). It is recommended that the Social Security Administration Commissioner's final decision regarding Plaintiff's termination of disability benefits be reversed and remanded pursuant to Sentence Four of § 405(g) because it is not supported by substantial evidence and is not based on a proper application of legal standards. (*Id.* at 8). Specifically, the Magistrate Judge finds that the Administrative Law Judge ("ALJ") erred by failing to make a determination regarding Plaintiff's ability to afford medical treatment and to engage in substantial gainful activity, prior to finding that Plaintiff was not disabled due to noncompliance with prescribed medical treatment. He also observes that the ALJ erred by failing to properly determine if Plaintiff failed to cooperate with the agency. (*Id.* at 5-8). Finally, Judge Langstaff finds that the Commissioner erred by failing to afford Plaintiff written notice prior to the termination of Plaintiff's benefits. (*Id.* at 9).

The Report and Recommendation provided the Parties with fourteen (14) days¹ from the date of its service to file written objections to the recommendations therein. (*Id.*). Defendant has yet to file an objection, and the period for filing objections expired on Thursday, March 1, 2012.

Accordingly, upon full review and consideration of the record and the absence of an objection to the Recommendation, the Court finds that Judge Langstaff's February 13, 2012 Report and Recommendation (Doc. 29) should be, and hereby is, **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein. The Commissioner's final decision is therefore **REVERSED**, and this matter is **REMANDED** to the ALJ, pursuant to Sentence Four of § 405(g), for further proceedings consistent with this Order and the Report and Recommendation.

SO ORDERED, this 27th day of March, 2012.

/s/ W. Louis Sands

**THE HONORABLE W. LOUIS SANDS,
UNITED STATES DISTRICT COURT**

¹ The Parties were given an additional three days because service was made by mail. *See* Fed. R. Civ. P. 6(d) (adding three days to specified period within which a party may act if service is made under Rule 5(b)(2)(C) by mailing process to a party's last known address).