

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
SOUTHERN DIVISION AT PIKEVILLE

CIVIL ACTION NO. 7:08-74-KKC

PAUL G. SMITH

PLAINTIFF

v.

**JUDGMENT**

MICHAEL ASTRUE,  
*Commissioner of Social Security*

DEFENDANT

\* \* \* \* \*

In compliance with Federal Rule of Civil Procedure 58 and sentence four of 42 U.S.C. § 405(g), it is HEREBY ORDERED that:

- (1) Plaintiff's motion for Summary Judgment is DENIED insofar as it challenges the ALJ's third finding;
- (2) Plaintiff's motion for Summary Judgment is GRANTED insofar as it challenges the ALJ's fourth finding, and the ALJ's fourth finding is REVERSED;
- (3) Defendant's motion for Summary Judgment is GRANTED insofar as it supports the ALJ's third finding;
- (4) Defendant's motion for Summary Judgment is DENIED insofar as it supports the ALJ's fourth finding; and
- (5) This case is REMANDED to the ALJ for completion of the disability determination in accordance with this opinion.
- (6) This is a final and appealable order and no just cause for delay exists.

Dated this 24<sup>th</sup> day of June, 2009.



**Signed By:**

**Karen K. Caldwell** *KKC*  
**United States District Judge**