

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
PADUCAH DIVISION  
CIVIL ACTION NO. 5:08CV207-J

DANA TURNER

PLAINTIFF

v.

MICHAEL J. ASTRUE,  
Commissioner of Social Security

DEFENDANT

**MEMORANDUM OPINION AND ORDER**

Plaintiff Dana Turner seeks Disability Insurance and Supplemental Security Income Benefits which were denied by the Commissioner. This matter was referred to United States Magistrate Judge W. David King who recommends that the final decision of the matter be remanded to the Commissioner for a new decision and for further development of the evidence pertaining to the plaintiff's cognitive and emotional impairments, if any, in light of psychological consultant, Dr. Gordon Williams' findings.

The Commissioner has timely filed objections to the Magistrate's Report arguing that the ALJ adequately weighed the opinions of Dr. Williams, because as a consultative evaluator, his opinions are not entitled to special deference. The Commissioner posits that it is charged with the duty to weigh the evidence, and that the ALJ properly discounted Dr. Williams' findings of marked limitations due to possible right hemispheric dysfunction. The Court finds error in the ALJ's failure to find a significant mental impairment. The record irrefutably indicates that the claimant has an intracranial mass, and every medical source to examine or evaluate the claimant found mental impairments to be present.

In sum, this Court has conducted a de novo review of the magistrate judge's report in light of the objections thereto and the record as a whole. The magistrate judge's report is hereby adopted,

and its findings and conclusions are incorporated by reference herein.

Accordingly, IT IS ORDERED that this case is REMANDED to the Commissioner of Social Security for further administrative proceedings. The clerk of Court shall enter a separate judgment as required by Fed.R.Civ.P. 58.

This is a final and appealable Memorandum Opinion and Order, and there is no just cause for delay.