

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GERALD PRINCE,

Plaintiff,

Case No. 07-11945

v.

District Judge Arthur J. Tarnow

COMMISSIONER OF SOCIAL
SECURITY,

Magistrate Judge Donald A. Scheer

Defendant.

**ORDER ACCEPTING MAGISTRATE JUDGE'S
REPORT & RECOMMENDATION [18], BUT REMANDING CASE TO THE
MAGISTRATE JUDGE FOR CONSIDERATION OF THE POTENTIALLY
PRECLUSIVE EFFECT OF PRIOR DISABILITY DETERMINATIONS**

Before the Court is Defendant's Motion for Summary Judgment [16]. On March 11, 2008, Magistrate Judge Scheer issued a Report and Recommendation [18] recommending that the complaint be dismissed for lack of progress, pursuant to Rule 41.2 of the Local Court Rules. On March 28, 2008, Plaintiff filed an Objection, and on April 14, 2008, Defendant filed a Response to Plaintiff's Objection.

Having reviewed the file, the Defendant's Motion for Summary Judgment, the Report and Recommendation, Plaintiff's Objection, and Defendant's Response, the Court hereby ACCEPTS the Report and Recommendation [18] as the findings and conclusions of the Court, but REMANDS the case to the Magistrate Judge for determination of whether – under *Drummond v. Commissioner of Social Security*, 126 F.3d 837 (6th Cir. 1997), and Acquiescence Ruling 98-4(6) – the Social Security Commission's prior determination that Plaintiff was eligible for benefits has preclusive effect on the present action. Therefore,

IT IS ORDERED that the Report and Recommendation [18] is ACCEPTED as the findings and conclusions of the Court.

FURTHER, this case is HEREBY REMANDED to the Magistrate Judge for consideration of the *res judicata* issue presented above.

SO ORDERED.

S/ARTHUR J. TARNOW
ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

Dated: 9/18/09

I HEREBY CERTIFY THAT A COPY OF THE FOREGOING DOCUMENT WAS SERVED UPON COUNSEL OF RECORD AND Gerald Prince Jr. 18410 Lesure Street, Detroit, MI 48235-2522 ON SEPTEMBER 18, 2008 BY ELECTRONIC AND/OR ORDINARY MAIL.

LISA WARE for THERESA TAYLOR
CASE MANAGER