

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CURTIS R. WRIGHT,

Plaintiff,

Case No. 09-14257

v.

DISTRICT JUDGE
ARTHUR J. TARNOW

COMMISSIONER OF SOCIAL
SECURITY,

MAGISTRATE JUDGE
R. STEVEN WHALEN

Defendant.

_____ /

ORDER
ADOPTING REPORT AND RECOMMENDATION [6],
GRANTING DEFENDANT'S MOTION TO DISMISS [4],
and
DISMISSING THE CASE WITHOUT PREJUDICE

On May 12, 2010, the Magistrate Judge issued a Report and Recommendation [6] recommending that Defendant's Motion to Dismiss [4] be granted, and that the case be dismissed without prejudice to Plaintiff's right to file a timely complaint after full exhaustion of his administrative remedies.

Neither party filed objections to the Report and Recommendation. However, Plaintiff requested [7] and received [8] a stay of this action until July 30, 2010, citing the parties' efforts to schedule a hearing before an Administrative Law Judge ("ALJ"). In a Supplemental Brief [9] filed on August 3, 2010, Defendant represents to the Court that this matter proceeded to an administrative hearing on June 10, 2010, and that the ALJ's decision is now pending. *See* Def.'s Supp. Br. at 3.

The Court has reviewed the record in this case. It is apparent that Plaintiff has not obtained a final decision that can be subjected to judicial review. *See* 20 C.F.R. §§ 404.981, 422.210. Thus, the Court has no subject matter jurisdiction over the action.

Therefore, the Court being fully advised in the premises,

The Report and Recommendation [6] of the Magistrate Judge is hereby **ADOPTED**, and is entered as the findings and conclusions of the Court. Accordingly,

IT IS ORDERED that Defendant's Motion to Dismiss [4] is **GRANTED**.

This case is hereby **DISMISSED WITHOUT PREJUDICE**. In the event of an unfavorable final decision below, Plaintiff may file a timely complaint after full exhaustion of his administrative remedies.

SO ORDERED.

S/ARTHUR J. TARNOW
Arthur J. Tarnow
Senior United States District Judge

Dated: August 14, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 14, 2010, by electronic and/or ordinary mail.

S/LISA M. WARE
Case Manager