

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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LUCINDA MARIE BALL,  
Plaintiff,

v.

ORDER  
09-CV-40

MICHAEL J. ASTRUE,  
COMMISSIONER OF SOCIAL SECURITY,  
Defendant.

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This case was referred to Magistrate Judge Leslie G. Foschio, pursuant to 28 U.S.C. §636(b)(1), on May 8, 2009. On October 2, 2009, defendant filed a motion for judgment on the pleadings. On July 28, 2010, Magistrate Judge Foschio filed a Report and Recommendation, recommending that defendant's motion should be denied and the matter remanded for a rehearing.

Defendant filed objections to the Report and Recommendation on August 6, 2010 and the plaintiff filed a response thereto.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Foschio's Report and Recommendation, defendant's motion for judgment on the pleadings is denied and the case is remanded to the Commissioner for a rehearing pursuant to sentence four of 42 U.S.C. § 405(g). The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

*s/ Richard J. Arcara*  
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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: December 1, 2010