

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NORTH DAKOTA
 SOUTHEASTERN DIVISION

Michael M. Madcke,)	
)	
Plaintiff,)	Case No. 3:09-cv-108
)	
-vs-)	
)	ORDER ADOPTING REPORT AND
Social Security Administration)	RECOMMENDATION
Commissioner, Michael J. Astrue,)	
)	
Defendant.)	

Plaintiff Michael M. Madcke (“Madcke”) has sought judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) denying his application for disability insurance benefits and for supplemental security income. The Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending the Commissioner’s decision be remanded for reconsideration of Madcke’s subjective complaints in determining his residual functional capacity (Doc. #35). The Commissioner objected to the Report and Recommendation (Doc. #36), and Madcke responded to those objections (Doc. #37).

The Commissioner contends the Administrative Law Judge’s (“ALJ”) credibility analysis is supported by substantial evidence and free from legal error; therefore, the Commissioner’s final decision should be affirmed. After carefully reviewing the entire record, the Court finds the ALJ failed to adequately explain and support his credibility findings when determining Madcke’s residual functional capacity.

After considering the magistrate judge’s Report and Recommendation, conducting a *de novo* review of the Commissioner’s objections, and reviewing the entire file, the Court hereby

adopts the Report and Recommendation in its entirety. For the reasons set forth therein, Madcke's motion for summary judgment reversing the ALJ's decision (Doc. #18) is **DENIED**; the Commissioner's motion for summary judgment (Doc. #27) is **DENIED**; Madcke's motion to remand (Doc. #24) is **GRANTED** and the case is **REMANDED** for reconsideration of Madcke's subjective complaints in determining his RFC.

IT IS SO ORDERED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 6th day of October, 2010.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief Judge
United States District Court