**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

FILED
JAMES BONINI
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U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
WESTERN DIV. DAYTON

MARK A. SUGGS,   :

    Plaintiff,   :
                                                        Case No. 3:08cv00369
                                           :

vs.   :   District Judge Walter Herbert Rice
                                                  Magistrate Judge Sharon L. Ovington
MICHAEL J. ASTRUE,   :
Commissioner of the Social
Security Administration,   :

    Defendant.   :
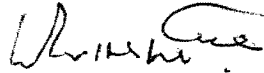
                                           :

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS FILED ON SEPTEMBER 29, 2009 (Doc. #12); VACATING THE COMMISSIONER'S NON-DISABILITY FINDING; MAKING NO FINDING AS TO WHETHER PLAINTIFF IS UNDER A "DISABILITY" WITHIN THE MEANING OF THE SOCIAL SECURITY ACT; REMANDING THE CASE TO THE COMMISSIONER AND THE ADMINISTRATIVE LAW JUDGE UNDER SENTENCE FOUR OF 42 U.S.C. §405(g) FOR FURTHER CONSIDERATION CONSISTENT WITH THIS DECISION AND ENTRY AND WITH THE REPORT AND RECOMMENDATIONS; AND TERMINATING THE CASE ON THE DOCKET OF THIS COURT

The Court has conducted a <u>de novo</u> review of the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Doc. #12), to whom this case was originally referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby **ADOPTS** said Report and Recommendations.

It is therefore **ORDERED** that:

1.   The Report and Recommendations filed on September 29, 2009 (Doc. #12) is ADOPTED in full;

2.   The Commissioner's non-disability finding is VACATED;

3.   No finding is made as to whether Plaintiff Mark A. Suggs was under a "disability" within the meaning of the Social Security Act;

4.   This case is REMANDED to the Commissioner and the Administrative Law Judge under Sentence Four of 42 U.S.C. §405(g) for further consideration consistent with this Decision and Entry and the Report and Recommendations; and

5.   The case is terminated on the docket of this Court.

Walter Herbert Rice
United States District Judge