

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

| | | |
|------------------------|---|-------------------------------------|
| RONDIA K. MENDOZA, | : | |
| | : | |
| Plaintiff, | : | Case No. 3:09CV0013 |
| | : | |
| vs. | : | |
| | : | District Judge Thomas M. Rose |
| MICHAEL J. ASTRUE, | : | Magistrate Judge Sharon L. Ovington |
| Commissioner of Social | : | |
| Security, | : | |
| | : | |
| Defendant. | : | |

DECISION AND ENTRY

The Court has conducted a *de novo* review of the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Doc. #10), to whom this case originally was 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 therefore is **ORDERED THAT**:

1. The Report and Recommendations filed on November 24, 2009 (Doc. #10) is **ADOPTED** in full;

2. The Commissioner's non-disability finding is VACATED;
3. No finding is made as to whether Plaintiff Rondia Mendoza was under a "disability" within the meaning of the Social Security Act during the period of time at issue;
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 the Report and Recommendations adopted herein; and
4. The case is TERMINATED on the docket of this Court.

December 15, 2009

**s/THOMAS M. ROSE*

Thomas M. Rose
United States District Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten [10] days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is extended to thirteen [13] days (excluding intervening Saturdays, Sundays and legal holidays) because this Report is being served by mail. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten [10] days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F. 2d 947 (6th Cir. 1981).