

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

PAMELA R. SMILEY, : Case No. 3:11-cv-413
 :
 Plaintiff, : District Judge Thomas M. Rose
 : Magistrate Judge Michael J. Newman
 vs. :
 COMMISSIONER OF :
 SOCIAL SECURITY, :
 :
 Defendant. :

DECISION AND ENTRY

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Michael J. Newman (Doc. # 14), to whom this case 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 Recommendation.

Accordingly, it is hereby **ORDERED** that:

1. The Report and Recommendation filed on January 11, 2013 is **ADOPTED** in full;
2. The Commissioner's non-disability finding is vacated;
3. No finding is made as to whether Plaintiff Pamela Smiley is 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 the Report and Recommendation, and this Decision and Entry; and
5. The case is terminated on the docket of this Court.

February 4, 2013

s/Thomas M. Rose
United States District Judge