

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

MARK A. HEATHERLY,	:	
Plaintiff,	:	
vs.	:	Case No. 3:11cv00438
MICHAEL J. ASTRUE, Commissioner of the Social Security Administration,	:	District Judge Walter Herbert Rice Magistrate Judge Sharon L. Ovington
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. #11), 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.

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

1. The Report and Recommendations filed on November 14, 2012 (Doc. #11) is **ADOPTED** in full;
2. The Commissioner's non-disability finding is vacated;
3. No finding is made as to whether Plaintiff Mark A. Heatherly 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 Report; and

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



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Walter Herbert Rice  
United States District Judge