IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Tobby Davis, Plaintiff, vs. Michael J. Astrue, Commissioner of Social Security, Defendant.	)	C/A: 5:11-405-JFA-KDW ORDER

In an order filed September 27, 2012, this court overruled the objections to the Magistrate Judge's Report and Recommendation, and affirmed the decision of the Commissioner denying social security disability benefits in this case. Plaintiff timely moved under Rule 59(e) of the Federal Rules of Civil Procedure to alter or amend the judgment, and the defendant has responded to the motion.

After reviewing the submissions of the parties, and reviewing the recent decision of the United States Court of Appeals for the Fourth Circuit in *Bird v. Commissioner*, ___ F.3d ____ (4th Cir. 2012), the court has become persuaded that its initial decision to affirm the ALJ's denial of benefits was improvidently granted. The record contains evidence of interstitial cystitis that was produced after the last date insured but, when considered with evidence produced before the last date insured, there might exist objective evidence to support the treating doctor's conclusion that claimant suffered significant limitations of

impairment from the interstitial cystitis before the last date insured. Moreover, case law indicates that a treating physician's diagnosis after the last date insured, of a condition which existed before the last date insured, must be given the same deference as a diagnosis made at any other time.

For these reasons, the court hereby grants the plaintiff's motion to reconsider and vacates the court's order of September 27, 2012. The court rejects the recommendation of the Magistrate Judge in this case and determines that a remand in accordance with the terms of this order is appropriate. The court hereby remands this action to the Commissioner under Sentence Four of § 205(g) of the Social Security Act, so that the ALJ may properly evaluate claimant's interstitial cystitis problem in accordance with this order.

IT IS SO ORDERED.

Joseph F. Anderson, Jr.

November 13, 2012
Columbia, South Carolina

Joseph F. Anderson, Jr.
United States District Judge