

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

Charles Faison,

Plaintiff,

vs.

Michale J. Astrue, Commissioner  
of Social Security,

Defendant.

Civil Action No. 6-10-2375-RMG

**ORDER**

Plaintiff filed this action for judicial review pursuant to 42 U.S.C. §405(g) and 1383(c)(3) challenging the denial of claims for disability insurance benefits and supplemental security income benefits by the Commissioner of Social Security. In accord with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., the matter was initially referred to the Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommended which recommended that the decision of the Commissioner be reversed and remanded. The Magistrate Judge found various legal deficiencies in the decision of the Commissioner, including a failure at the third step of the sequential evaluation to properly address listed impairments 1.05 and 9.08, the failure to appropriately weigh the opinions of Plaintiff's treating and examining physicians, a failure to appropriately articulate the basis for the credibility finding, and a failure to comply with the requirements of SSR 00-4p in making the residual functional capacity determination. (Dkt. No. 17 at 11-21). The Commissioner advised the Court that he will not file objections to the Report

and Recommendation of the Magistrate Judge. (Dkt. No. 18).

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charge with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and may accept, reject or modify, in whole or in part, the recommendation of the Magistrate Judge. 28 U.S.C. § 636(b)(1).

The Court, having reviewed the Report and Recommendation, the notice of the Defendant that it does not object to the recommendation for reversal and remand, and the applicable law, hereby **ADOPTS** the Report and Recommendation of the Magistrate Judge, **REVERSES** the decision of the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g), and **REMANDS** the case to the Commissioner for further action consistent with this Order.

**AND IT IS SO ORDERED.**



Richard Mark Gergel  
United States District Judge

Charleston, South Carolina  
January 4, 2012