

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

FILED
DECEMBER 11 2008
[Signature]
CLERK

BARBARA L. DEWALD,

CIV 07-3036

Plaintiff,

-vs-

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

ORDER ADOPTING
REPORT AND RECOMMENDATION

Plaintiff brought this action pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g), to obtain judicial review of defendant's final decision denying plaintiff's claim for disability and supplemental security insurance benefits. This matter was referred to United States Magistrate Judge Mark A. Moreno for the purposes of conducting any necessary hearing and issuing a report and recommendation.

The magistrate filed his Report and Recommendation on October 20, 2008. Copies of such Report and Recommendation were served upon the parties as required by 28 U.S.C. § 636. No party has filed objections thereto. I have conducted a review of the file and the report as required by 28 U.S.C. § 636(b)(1)(C).

On appeal, this Court may affirm, modify, or reverse the Commissioner's decision with or without a remand to the Commissioner for further proceedings. 42 U.S.C. § 405(g). The magistrate recommended that the Commissioner's decision be reversed and remanded for further development and evaluation. Good cause appearing,

IT IS ORDERED:

1) The Report and Recommendations of the U.S. Magistrate Judge, Doc. 19, is accepted and adopted.

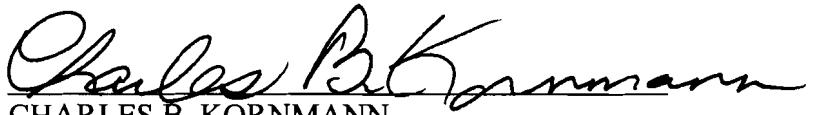
2) The motion of the plaintiff, Doc. 12, for summary judgment is granted insofar as it seeks reversal of the Commissioner's decision and remand.

3) The Commissioner's decision in this matter is reversed pursuant to sentence four of 42 U.S.C. § 405(g).

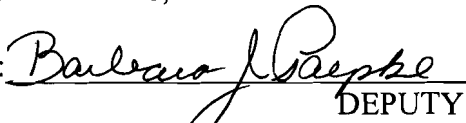
4) This matter is remanded to the Commissioner with directions to (1) properly evaluate the opinions of Dewald's medical providers; (2) reassess Dewald's testimony and credibility in light of her mental impairments; (3) further develop the record with additional consultative examinations and testing; and (4) issue a new decision based on substantial evidence of the record as a whole, based on relevant legal standards, all as recommended by the magistrate in his report and recommendation.

Dated this 10th day of December, 2008.

BY THE COURT:


CHARLES B. KORNMANN
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: 
DEPUTY
(SEAL)