

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

HOMER KING,
Plaintiff,

v.

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,
Defendant.

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**No. 3:09-CV-144
(Phillips/Shirley)**

MEMORANDUM OPINION

This Social Security appeal is before the court on the report and recommendation filed by United States Magistrate Judge C. Clifford Shirley [Doc. 20]. There have been no timely objections to the report and recommendation, and enough time has passed since the filing of the report and recommendation to treat any objections as having been waived. See 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

After a careful review of this matter, the court is in complete agreement with the magistrate judge’s conclusion that the Commissioner’s motion for summary judgment be denied and the plaintiff’s motion for summary judgment be granted to extent that it requests that the case be remanded to the Commissioner for a new hearing. Accordingly, the court **ACCEPTS IN WHOLE** the report and recommendation under 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). It is **ORDERED**, for the reasons stated in the report and

recommendation, which the court adopts and incorporates into its ruling, that the Commissioner's motion for judgment on the pleadings [Doc. 15] is **DENIED**; the plaintiff's motion for summary judgment [Doc. 11] is **GRANTED**, to the extent that the case is **REMANDED** to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for a new hearing.

ENTER:



s/ Thomas W. Phillips
United States District Judge