

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

MICHAEL S. ANDERSON §

VS. § CIVIL ACTION NO. 6:08cv258

COMMISSIONER,  
SOCIAL SECURITY ADMINISTRATION §

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court referred the above-entitled and numbered civil action to United States Magistrate Judge John D. Love. The Magistrate Judge presented for consideration the Magistrate Judge's Report, containing proposed findings of fact and recommendations for disposition. No objections were filed.

This Court finds that the Magistrate Judge's findings and conclusions are correct and adopts them as the Court's findings and conclusions. The Court therefore

**ORDERS, ADJUDGES, and DECREES** that this action is **REVERSED** and **REMANDED** for the Administration to present a proper hypothetical question to a vocational expert. The hypothetical question should include the following and any limitation found on Plaintiff's ability to perform repetitive movements, such as in operating foot controls, with his right foot:


If a claimant with Plaintiff's age, education, and vocational background retained the residual functional capacity for sedentary work and could, in an eight-hour workday,

stand/walk for more than two hours per day, sit for approximately six hours, with a morning break, a lunch period, and an afternoon break at approximately two-hour intervals, lift ten pounds at a time, and occasionally lift or carry articles like docket files, ledgers, and small tools, and occasionally perform postural activities, but were unable to reach overhead with his left arm, then would he be able to perform work, and if so, how many of those jobs exist in the national economy?

If such jobs are identified, then Plaintiff should be given the opportunity to prove that he cannot perform the alternate work.

**ORDERS** that all motions not previously ruled on are denied.

**SIGNED this 17th day of March, 2010.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE