

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**  
CHARLOTTESVILLE DIVISION

REGINA M. CHRISTMAS,

*Plaintiff,*

v.

MICHAEL J. ASTRUE, COMMISSIONER OF  
SOCIAL SECURITY,

*Defendant.*

CASE NO. 3:09-cv-00005

ORDER

JUDGE NORMAN K. MOON

This matter is before the Court upon the parties' cross motions for summary judgment (docket nos. 8 and 10), the Report & Recommendation of the United States Magistrate Judge B. Waugh Crigler (docket no. 13), and the Commissioner's Objections to the Report & Recommendation (docket no. 14) and Plaintiff's Response thereto (docket no. 15). The Court had referred this matter to the Magistrate Judge for proposed findings of fact and a recommended disposition pursuant to 28 U.S.C. § 636(b)(1)(B) (docket no. 7). The Magistrate Judge filed his Report & Recommendation that recommended this Court enter an order granting Plaintiff's Motion for Summary Judgment, reversing the Commissioner's final decision, and recommitting the case to the Commissioner solely to calculate and pay proper benefits.

For the reasons stated in the accompanying Memorandum Opinion, the Court hereby: (1) **DECLINES** to adopt the Report & Recommendation of the United States Magistrate Judge (docket no. 13); (2) **OVERRULES** the Commissioner's Objections to the Report & Recommendation (docket no. 14); (3) **DENIES** the Commissioner's Motion for Summary Judgment (docket no. 10); (4) **DENIES IN PART** Plaintiff's Motion for Summary Judgment (docket no. 8), to the extent that

said Motion requested a reversal of the Commissioner's decision with the direction that Plaintiff be awarded benefits, and GRANTS IN PART said Motion, to the extent said Motion requested a remand, and only insofar as is consistent with the accompanying Memorandum Opinion; (5) REVERSES the Commissioner's final decision denying Plaintiff benefits; (6) REMANDS the case to the Commissioner for further consideration at the final two levels of evaluation, with instructions to expressly indicate the weight given to all relevant evidence; and (7) ORDERS this case be DISMISSED, and STRICKEN from the Court's active docket.

The Clerk of the Court is hereby directed to send a certified copy of this Order and the accompanying Memorandum Opinion to all counsel of record, and to United States Magistrate Judge B. Waugh Crigler.

It is so ORDERED.

Entered this 17<sup>th</sup> day of March, 2010.

  
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NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE