

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION

CLERK'S OFFICE U.S. DIST. COURT  
AT LYNCHBURG, VA  
FILED

FEB 15 2011

JULIA M. WEAVER, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

THOMAS W. DALE, SR.,

*Plaintiff,*

v.

MICHAEL J. ASTRUE, COMMISSIONER OF  
SOCIAL SECURITY,

*Defendant.*

CIVIL ACTION No. 6:09-cv-00063

ORDER

NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE

I referred this case to United States Magistrate Judge Michael F. Urbanski for proposed findings of fact and a recommended disposition. The parties subsequently filed cross-motions for summary judgment, and on January 26, 2011, Judge Urbanski filed a Report and Recommendation ("Report") recommending that the case be reversed and remanded to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g), for consideration of a psychological evaluation performed on the Plaintiff on December 8, 2008. After a review of the entire record in this case, and no objection having been filed to the Report's recommended disposition within fourteen days of its service upon the parties, I adopt the Report in its entirety.

Accordingly:

1. the Report (docket no. 18) of January 26, 2011, is ADOPTED in its entirety;
2. the Commissioner's motion for summary judgment (docket no. 14) is DENIED;
3. Plaintiff's motion for summary judgment (docket no. 11) is GRANTED, IN PART, to the extent that it seeks remand for consideration of the psychological evaluation Daniel Owens, Ph.D. performed on Plaintiff on December 8, 2008;
4. the Commissioner's final decision in this case is REVERSED;

5. this matter is REMANDED to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g), for consideration of the December 8, 2008, psychological evaluation performed on Plaintiff by Daniel Owens, Ph.D.;
6. any other pending motions are DENIED as MOOT; and
7. this action is DISMISSED from the court's active docket.

The Clerk of the Court is directed to send a certified copy of this Order to all counsel of record and to United States Magistrate Judge Michael F. Urbanski.

It is so ORDERED.

ENTERED this 15<sup>th</sup> day of February, 2011.

  
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NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE