

JUL 15 2011

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division

JULIA C. DUDLEY, CLERK
BY: *J. C. Turk*
DEPUTY CLERK

STARR JEANETTE CUMMINGS,)
)
 Plaintiff,)
)
 v.)
)
 MICHAEL J. ASTRUE,)
 COMMISSIONER OF)
 SOCIAL SECURITY,)
)
 Defendant.)

Civil Action No. 7:10-CV-00461

ORDER ADOPTING REPORT
AND RECOMMENDATION

By: Judge James C. Turk
Senior United States District Judge

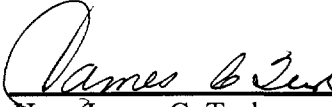
Plaintiff Starr Jeanette Cummings brings this action pursuant to 42 U.S.C. §§ 416 and 423 for review of the Commissioner of Social Security's final decision denying her claims for disability insurance benefits under the Social Security Act. The Court referred the matter to United States Magistrate Judge B. Waugh Crigler for a Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge subsequently filed a report finding that the Appeals Council failed to provide an adequate explanation for its decision not to review new evidence of disability that the plaintiff submitted. The Magistrate Judge, therefore, recommended that the Commissioner's decision be remanded, and that the parties' cross-motions for summary judgment be denied.

Following the issuance of the Report and Recommendation, the parties were entitled to note any objections within fourteen days. Fed. R. Civ. P. 72(b). The Court received no such objections. As a result, and having reviewed the Magistrate Judge's Report and Recommendation and pertinent portions of the record, the Court agrees with the Magistrate Judge's recommendation. Accordingly, it is hereby **ADJUDGED** and **ORDERED** that the Magistrate Judge's Report and Recommendation is **ADOPTED**, the Commissioner's and

Cummings' Cross-Motions for Summary Judgment (ECF No. 12, 19) are **DENIED**, and the case is **REMANDED**.

The Clerk of Court is directed to strike the case from the Court's active docket. The Clerk is further directed to send copies of this Order to counsel of record for all parties.

ENTER: This 14th day of July, 2011.



Hon. James C. Turk
Senior United States District Judge