

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

DAVID L. RHODES,

Plaintiff,

v.

CIVIL ACTION NO. 3:09-0810

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.


**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court affirm the final decision of the Commissioner and dismiss this matter from the Court's docket. Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **AFFIRMS** the final decision of the Commissioner and **DISMISSES** this matter from the Court's docket, consistent with the findings and recommendation.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: August 25, 2010

  
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ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE