

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

EQUILLA BRYANT o/b/o
TRESHEEK BURROUGHS,

Plaintiff,

vs.

MICHAEL J. ASTRUE,
Commissioner of
Social Security,

Defendant.

Case No. 06-1305-WEB

ORDER ADOPTING RECOMMENDATION AND REPORT

Now before the court is the review of the final decision of the Commissioner of Social Security denying Equilla Bryant supplemental security income disabled child payment on behalf of Tresheek Burroughs, her minor son. The matter was referred to the Magistrate Judge for a recommendation and report pursuant to Rule 72 (b), Federal Rules of Civil Procedure. The Recommendation and Report was filed on May 24, 2007. Neither party filed an objection to the Report.

The Magistrate Judge recommended the decision of the Commissioner be reversed, and the case be remanded for further proceedings (sentence four remand). Specifically, the recommendation stated the Administrative Law Judge (ALJ) erred by failing to recontact Dr. Amos. The plaintiff argues the claimant has an impairment or combination of impairments that met, medically equaled, or functionally equaled an impairment listed in the List of Impairments. The information contained within the briefs of the parties, and the Recommendations of the Magistrate Judge, show the notes of the treating physician were minimal, and for the most part,

illegible. The ALJ did not contact Dr. Amos for clarification. The court has a duty to recontact a physician for clarification or for additional information. *Robinson v. Barnhard*, 366 F.3d 1078, 1084 (10th Cir. 2004).

The record supports the findings of the Magistrate Judge and his legal conclusions. It is therefore ORDERED that the decision of the Commissioner be REVERSED, and that the case be REMANDED for further proceedings (sentence four remand) for the reasons set forth in the Magistrate Judge's Recommendation and Report.

The Clerk of the Court is directed to enter Judgment accordingly.

SO ORDERED this 14th day of August, 2007.

s/ Wesley E. Brown
Wesley E. Brown
U.S. Senior District Judge