

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF KANSAS

ANNETTE NELSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 07-1191-WEB
)	
MICHAEL J. ASTRUE,)	
Commissioner of)	
Social Security,)	
)	
Defendant.)	

ORDER ADOPTING REPORT AND RECOMMENDATIONS

Now before the court is the review of the final decision of the Commissioner of Social Security denying Annette Nelson disability insurance benefits and supplemental security income payments. 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 December 18, 2007. Neither party filed an objection to the Report.

The Magistrate Judge recommends this case should be reversed and remanded pursuant to the motion filed by the defendant. The Appeals Council tape from the August 2006 hearing was blank, and the Appeals Council has agreed to a voluntarily remand to Plaintiff's case. The Magistrate Judge also directed the Administrative Law Judge (ALJ) to reevaluate Plaintiff's headaches and address functional imitations in regard to the headaches. The ALJ should assess functional capabilities and limitations, clarify the nature and severity of Plaintiff's impairments, and determine the Plaintiff's residual function capacity (RFC).

The court concurs in the Magistrate Judge's recommendation that the medical records regarding a person other than Plaintiff Annette Nelson should be removed and replaced with

blank page.

Therefore it is ORDERED that the Recommendation and Report (Doc. 11) be adopted by the Court.

It is further ORDERED that pages 280-282 of the social security record should be removed and replaced with blank pages, numbered 280-282.

It is further ORDERED that defendant's motion (Doc. 9-10) be GRANTED.

It is further ORDERED that the decision of the Commissioner be REVERSED and the matter be REMANDED pursuant to sentence four of 42 U.S.C. § 405(g) for further development in accordance with the standards set out in the Recommendation and Report.

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

SO ORDERED this 13th day of March, 2008.

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