

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DAVID HARDY,

Plaintiff,

v.

No. 09-1201-JTM

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

MEMORANDUM AND ORDER

This matter is before the court on the defendant Commissioner of Social Security's motion to dismiss and request for entry of final judgment. (Dkt. No. 13). Plaintiff David Hardy filed his response indicating no objection. (Dkt. No. 14).

On June 26, 2009, the plaintiff sought judicial review of the Administrative Law Judge's (ALJ) final decision finding plaintiff was not disabled. (Dkt. No. 1). The defendant moved the court to remand plaintiff's case pursuant to sentence six of 42 U.S.C. § 405(g). (Dkt. No. 9). The plaintiff did not file an objection, and this court issued an order remanding the case on September 24, 2009. (Dkt. No. 11). The clerk filed a judgment in accordance with the Order. (Dkt. No. 12).

Upon remand, the plaintiff amended his alleged onset date of disability from May 9, 1996, to June 1, 2003. On June 28, 2010, the ALJ found that plaintiff: 1) was disabled as of his amended onset date of disability; 2) filed his applications for Title II and XVI benefits on March 9, 2006; and 3) had insured status for Title II benefits through December 31, 2003. (Dkt. No. 13).

The defendant requests that this court enter final judgment dismissing this case since there are no unresolved issues for the court's consideration. (*Id.* at 2). The defendant also requests the court to withdraw the September 24, 2009 judgment that was entered in error. (*Id.* at 1).

IT IS ACCORDINGLY ORDERED this 20th day of August, 2010, that 1) the plaintiff's motion to dismiss and request for entry of final judgment (Dkt. No 13) is granted and 2) the September 24, 2009 judgment is withdrawn.

s/J. Thomas Marten
J. THOMAS MARTEN, JUDGE