

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**LAKIA SMITH,**

**Plaintiff,**

**v.**

**MICHAEL J. ASTRUE,**

**Defendant.**

**Civil Action No. 11-44 (JEB/AK)**

**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on the Report and Recommendation filed by Magistrate Judge Alan Kay on Sept. 4, 2012. The 14-day period during which the parties may file objections to the Report and Recommendation has expired, see Local Civil Rule 72.3(b), and neither party has filed objections.

Plaintiff Lakia Smith brought this action seeking to reverse the final decision of the Commissioner of Social Security, Defendant Michael J. Astrue, denying her applications for disability insurance benefits under title II of the Social Security Act. The dispute centered over whether substantial evidence demonstrated that Plaintiff was capable of performing work during the relevant time period. Plaintiff filed a Motion for Judgment on the Record, and Defendant filed a Motion for Judgment on the Pleadings.

After considering the parties' Motions, Magistrate Judge Kay recommended, in the course of a detailed 14-page Report and Recommendation, that the case be remanded to the Appeals Council for consideration of Dr. McNair's questionnaire, but that Plaintiff's other requests be denied.

After consideration of the Report and Recommendation of Magistrate Judge Kay, the absence of any party's objection thereto, the entire record before the Court, and the applicable law, the Court will adopt Magistrate Judge Kay's Report and Recommendation and remand the matter to the Appeals Council.

The Court, accordingly, ORDERS that:

1. The Report and Recommendation is hereby ADOPTED;
2. Plaintiff's Motion for Judgment (ECF No. 18) is GRANTED IN PART and DENIED IN PART; and Defendant's Motion for Judgment on the Pleadings (ECF No. 25) is DENIED; and
3. The matter is REMANDED to the Appeals Council for the limited review set forth in the Report and Recommendation.

IT IS SO ORDERED.

/s/ James E. Boasberg  
JAMES E. BOASBERG  
United States District Judge

Date: Sept. 26, 2012