

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

MICHAEL A. BRYANT,	)	CASE NO. 1:07 CV 2314
	)	
Plaintiff,	)	JUDGE DONALD C. NUGENT
	)	
v.	)	MAGISTRATE JUDGE
	)	WILLIAM H. BAUGHMAN, JR.
COMMISSIONER OF SOCIAL	)	
SECURITY,	)	
	)	<b><u>REPORT &amp; RECOMMENDATION</u></b>
Defendant.	)	

I previously issued a report and recommendation that recommended a “limited remand ... for reconsideration of the finding as to Bryant’s credibility regarding his complaints of the limiting effects of his blackout spells/syncope.”<sup>1</sup> Bryant has now filed a motion for clarification asking me to state that such remand would require a de novo review of the application and a merger of the remanded application with a new application.<sup>2</sup> The Commissioner has filed a response that takes issue with Bryant’s understanding of post-remand administrative procedures, at least in part.<sup>3</sup> Judge Nugent has referred the case back to me for a report and recommendation on the motion to clarify.<sup>4</sup>

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<sup>1</sup> ECF # 19 at 9.

<sup>2</sup> ECF # 20.

<sup>3</sup> ECF # 24.

<sup>4</sup> ECF # 21.

It appears that under the law of the Sixth Circuit, upon remand of an application from a federal court, an ALJ may consider “[a]ny issues relating to ... your claim ... whether or not they were raised in the administrative proceedings in your case.”<sup>5</sup> Consistent with that law, the report and recommendation is modified to make clear that on remand the ALJ may consider any issue necessary to the full and fair evaluation of Bryant’s application.

Dated: November 24, 2008

s/ William H. Baughman, Jr.  
United States Magistrate Judge

### **Objections**

Any objections to this Report and Recommendation must be filed with the Clerk of Courts within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the District Court’s order.<sup>6</sup>

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<sup>5</sup> *Hollins v. Massinari*, 49 F. App’x 533, 536 (6th Cir. 2002).

<sup>6</sup> *See, United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also, Thomas v. Arn*, 474 U.S. 140 (1985), *reh’g denied*, 474 U.S. 1111 (1986).