

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

FILED
U.S. DIST. COURT
MIDDLE DIST. OF LA.

04 DEC 27 PM 3:56

OTHO SPEIGHTS, JR.

SIGN
by DEPUTY CLERK
CIVIL ACTION

VERSUS

NO. 04-003-D-M3

JO ANNE B. BARNHART,
COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION

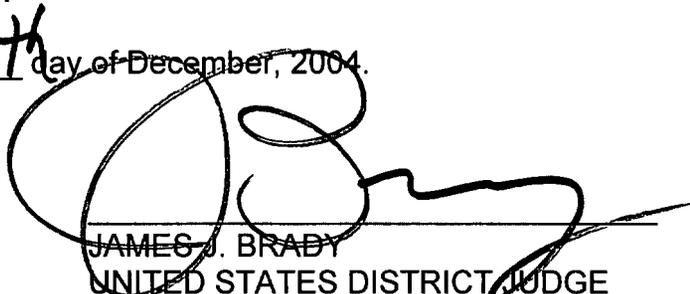
RULING

The court has carefully considered the petition, the record, the law applicable to this action, and the Report and Recommendation of United States Magistrate Judge Docia L. Dalby dated November 30, 2004 (doc. no. 13).

Accordingly, defendant's Rule 12(b)(6) motion to dismiss for lack of subject matter jurisdiction (doc. no. 8) is DENIED, and pursuant to the fourth sentence of 42 U.S.C. §405(g), final judgment will be entered reversing the decision of the Commissioner denying plaintiffs request for an extension of time to administratively appeal the ALJ's decision of October 14, 1998, that denied plaintiffs claim for benefits and remanding this matter to the Commissioner for further proceedings consistent with the opinion of this court, including the presentation of any further relevant evidence developed by the parties.

The Commissioner is directed to forward a copy of this court's opinion and report to the ALJ hearing the matter on remand .

Baton Rouge, Louisiana, this 27th day of December, 2004.


JAMES J. BRADY
UNITED STATES DISTRICT JUDGE

JB
SE
Falkenheuer
Graupp

Date Docketed
DEC 27 2004
Notices Mailed To:

INITIALS	DOCKET#
ATB	14