

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DAVID HAYES,

Plaintiff,

v.

CASE NO. 8:08-CV-1779-T-17MAP

MICHAEL ASTRUE,
Commissioner of Social
Security,

Defendant.

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ORDER

This cause is before the Court on:

Dkt. 29 Report and Recommendation

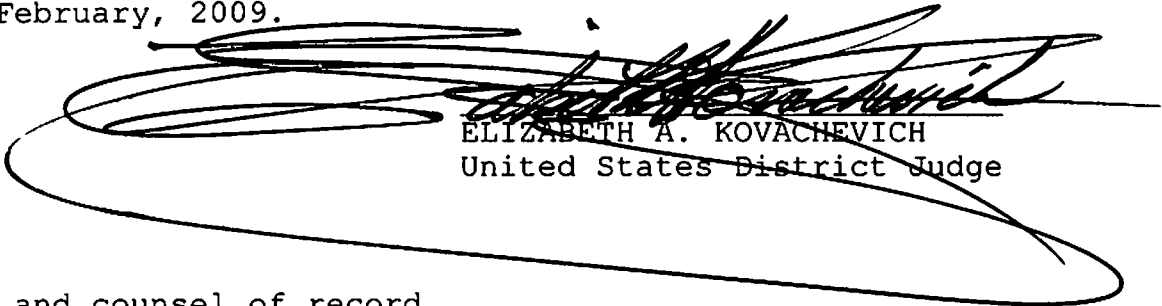
In this case, Plaintiff David Hayes seeks review of the Commissioner's decision denying his claims for a period of disability, disability insurance benefits ("DIB") and supplemental security income. The assigned Magistrate Judge has entered a Report and Recommendation in which it is recommended that the Commissioner's decision be reversed, the case be remanded, and judgment entered for the Plaintiff. Magistrate Judge Pizzo further recommends that Plaintiff be examined by a gastroenterologist, as recommended by the ALJ at the administrative hearing. (R. 333).

The Court has independently reviewed the pleadings, including the Administrative Record (Dkt. 17). No objections to the Report and Recommendation have been filed. After consideration, the Court adopts and incorporates the Report and Recommendation. Accordingly, it is

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ORDERED that the Report and Recommendation (Dkt. 29) is **adopted** and **incorporated** herein by reference. The decision of the Commissioner of Social Security is **reversed**. This case is **remanded** for further administrative action, as follows: 1) A gastroenterology consult shall be obtained, and Plaintiff's subjective complaints regarding diarrhea and related symptoms shall be considered; 2) Plaintiff's letter (R. 146) to the ALJ, and Plaintiff's statement that his problems with leakage and diarrhea could be resolved with surgery but that he does not have the medical insurance to cover the surgery's cost shall be considered. The Clerk of Court **shall enter** a final judgment in favor of Plaintiff David Hayes and against Michael Astrue, Commissioner of Social Security.

DONE and ORDERED in Chambers, in Tampa, Florida on this 10th day of February, 2009.



ELIZABETH A. KOVACHEVICH
United States District Judge

Copies to:
All parties and counsel of record