

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

WILLARD J. HARRELL,
Plaintiff,

vs.

Case No.: 3:08cv66/LAC/EMT

MICHAEL J. ASTRUE,
Commissioner of Social Security,
Defendant.

REPORT AND RECOMMENDATION

This action was initiated under the Social Security Act to obtain judicial review of Defendant's final decision denying Plaintiff's claim for disability benefits (Doc. 1). Now before the court is Defendant's Motion to Remand pursuant to sentence four of Title 42 U.S.C. § 405(g) (Doc. 14). Defendant has certified that Plaintiff has no objection to this motion (*id.*).

Sentence four of section 405(g) states that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." 42 U.S.C. § 405(g). In the instant case, the Commissioner states that remand is appropriate to enable an Administrative Law Judge to:

consolidate this case with subsequent claims filed by Plaintiff under Titles II and XVI of the Act in July 2007, which are now pending a request for a hearing in the hearing office. The ALJ will be instructed to issue a new decision upon the consolidated and expanded record, which will include consideration of the substantial additional medical evidence concerning Plaintiff's impairments obtained with his later claims and a specific evaluation of each of the medical opinions of record, including that of his treating physician, Dr. Reyes, in July 2006.

(Doc. 14, Memorandum in Support at 1–2). Based upon the foregoing, this court concludes that good cause has been shown for remand.

Accordingly, it is respectfully **RECOMMENDED**:

1. That Defendant's Motion to Remand (Doc. 14) be **GRANTED**, and the Commissioner's decision denying benefits be **REVERSED**.

2. That this case be **REMANDED** to the Commissioner of Social Security pursuant to sentence four of 42 U.S.C. § 405(g).

3. That Defendant be ordered to conduct proceedings in accordance with this Report and Recommendation.

4. That the Court enter a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure

5. That the clerk be directed to administratively close this file.

At Pensacola, Florida, this 7th day of October 2008.

/s/ Elizabeth M. Timothy

ELIZABETH M. TIMOTHY

UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

Objections to these proposed findings and recommendations may be filed within ten days after being served a copy thereof. Any different deadline that may appear on the electronic docket is for the court's internal use only, and does not control. A copy of objections shall be served upon the magistrate judge and all other parties. Failure to object may limit the scope of appellate review of factual findings. *See* 28 U.S.C. § 636; United States v. Roberts, 858 F.2d 698, 701 (11th Cir. 1988).