

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**DELOIS B. ANDERSON,**  
**Plaintiff,**

vs.

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

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**Civil Action 09-00531-KD-B**

**ORDER**

After due and proper consideration of all portions of this file deemed relevant to the issues raised and there having been no objections filed, the recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) and dated November 20, 2009, is **ADOPTED** as the opinion of this Court. Accordingly, for good cause shown and because no answer has been filed, it is **ORDERED** that Defendant's unopposed Motion to Remand (Doc. 10) is **GRANTED** and this action is **REMANDED** to the Social Security Administration pursuant to sentence six of 42 U.S.C. § 405(g), so that the Commissioner can locate or reconstruct the claim file regarding the Administrative Law Judge's April 5, 2007 decision.

Under this remand pursuant to sentence six of Section 405(g), Plaintiff is not a prevailing party for purposes of the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. See, Shalala v. Schafer, 509 U.S. 292, 297-298 and 300-302, 113 S.Ct. 2625, 2629 and 2631-2632, 125 L.Ed. 2d 239 (1993).

**DONE and ORDERED** this the **23<sup>rd</sup>** day of **November 2009**.

/s/ Kristi K. DuBose \_\_\_\_\_  
**KRISTI K. DuBOSE**  
**UNITED STATES DISTRICT JUDGE**