

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

**ASHLEY THOMAS,  
Plaintiff,**

vs.

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

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**CIVIL ACTION NO. 11-00569-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 December 20, 2011, 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 Motion to Remand (Doc. 12) be and is hereby **GRANTED** and that this action is **REMANDED** to the Social Security Administration pursuant to sentence six of 42 U.S.C. § 405(g), so that the Appeals Council can review any materials submitted by Plaintiff’s counsel to determine if the file is complete, or if the file cannot be completed, the Appeals Council will remand the case to an ALJ to reconstruct the administrative record, hold another administrative hearing, and issue a decision. 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, as a result of this sentence six remand. 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 **11<sup>th</sup>** day of **January 2012**.

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