

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge John L. Kane

Civil Action No. 08-cv-2664-AP

GILBERT MARTINEZ,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of Social Security,

Defendant.

ORDER

The parties' Stipulated Motion to Remand (doc. #17), filed June 30, 2009, is GRANTED.

This civil action is remanded to Defendant for additional administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

The administrative law judge's (ALJ) decision that Plaintiff was disabled beginning on March 1, 2007, will not be disturbed on remand. Rather, the ALJ will be directed to consider on remand whether Plaintiff was under a disability prior to March 1, 2007. In this regard, the ALJ will be instructed to consider all evidence, apply the appropriate regulations, if necessary obtain additional medical evidence from treating medical sources, if necessary obtain the testimony of a medical expert in accordance with Social Security ruling 83-20, and obtain vocational expert testimony to determine whether

a significant number of jobs exist in the national economy Plaintiff would be able to perform given his age, education, work experience, and residual functional capacity. If the Plaintiff is found disabled, the ALJ will consider reopening the Commissioner's July 5, 2002, and December 15, 2004, decisions concerning Plaintiff in accordance with the appropriate regulations.

Plaintiff may file an application for attorney fees in accordance with the requirements of the Equal Access to Justice Act, 28 U.S.C. § 2412 (EAJA), and the Commissioner shall have the right to respond to any such fee petition.

Dated: June 30, 2009.

BY THE COURT:

S/John L. Kane

JOHN L. KANE, SENIOR JUDGE
UNITED STATES DISTRICT COURT