

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.

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**ORDER**

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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