

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SCOTT G. MITCHELL,

Plaintiff,

v.

Case No. 8:08-cv-1573-T-33TGW

MICHAEL J. ASTRUE,  
COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**ORDER**

This matter comes before the Court upon consideration of United States Magistrate Judge Thomas G. Wilson's report and recommendation (Doc. # 10), entered on March 2, 2009, recommending that the Commissioner of Social Security's unopposed motion for entry of judgment with remand (Doc. # 9) be granted. As of this date, the parties have not filed objections to the report and recommendation, and the time for doing so has elapsed.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). In the absence of specific objections,

there is no requirement that a district judge review factual findings de novo, Garvey v. Vaughn, 993 F.2d 776, 779 n. 9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions de novo, even in the absence of an objection. See Cooper-Houston v. S. Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994).

The Court has conducted an independent examination of the file and upon due consideration of the report and recommendation, the Court accepts the report and recommendation of Judge Wilson.

Accordingly, it is hereby


**ORDERED, ADJUDGED, and DECREED:**

- (1) United States Magistrate Judge Thomas G. Wilson's report and recommendation (Doc. # 10) is **ACCEPTED** and **ADOPTED**.
- (2) The Commissioner of Social Security's unopposed motion for entry of judgment with remand (Doc. # 9) is **GRANTED**.
- (3) The decision of the Commissioner is **REVERSED** and **REMANDED**.
- (4) The Clerk is directed to enter judgment in favor of Scott

Mitchell pursuant to 42 U.S.C. § 405(g) as this is a sentence four remand, and thereafter to close the file. Shalala v. Schaefer, 509 U.S. 292, 302-03 (1993); Newsome v. Shalala, 8 F.3d 775, 779-80 (11th Cir. 1993).

- (5) If Scott Mitchell ultimately prevails in this case upon remand to the Social Security Administration, any motion for attorney's fees under 42 U.S.C. § 406(b) must be filed within 60 days of the Commissioner's final decision. See Bergen v. Comm'r of Soc. Sec., 454 F.3d 1273, 1278 n.2 (11th Cir. 2006).

**DONE** and **ORDERED** in Chambers in Tampa, Florida, this 27th day of March 2009.

  
VIRGINIA M. HERNANDEZ COVINGTON  
UNITED STATES DISTRICT JUDGE

Copies:

All Counsel of Record