

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

JODE WILLIAM HARTLEIN,

Plaintiff,

v.

CASE NO. 1:09-cv-00009-MP-AK

MICHAEL J ASTRUE,

Defendant.

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ORDER

This matter is before the Court on Doc. 21, Report and Recommendation regarding the Motion to Remand Filed by Jode William Hartlein, Doc. 20. The Magistrate Judge recommends that Defendant's Motion to Remand be granted and this cause remanded to the Commissioner for further proceedings by the Administrative Law Judge. No party has filed an objection to the Report, and the time for doing so has passed. Finding no plain error, it is therefore hereby

ORDERED AND ADJUDGED:

1. The Report and Recommendation of the Magistrate Judge (Doc. 21) is ADOPTED and incorporated herein, and the Motion for Remand (Doc. 20) is GRANTED.
2. Pursuant to sentence four of 42 U.S.C. § 405(g), the Clerk is directed to enter final judgment REVERSING the Commissioner's decision to deny benefits and REMANDING the application to the Commissioner for rehearing in accordance with the Magistrate's Report and Recommendation.
3. Pursuant to Bergen v. Commissioner, 454 F.3d 1273, 1277-78 (11th Cir. 2006), proceedings on attorney fees under the Social Security Act, 42 U.S.C. § 406(b), are stayed until the matter is fully adjudicated upon remand. This stay relates only to attorney fee proceedings under § 406(b) of the Social Security Act, not to

attorney fee proceedings under the Equal Access to Justice Act, 28 U.S.C. § 2412, the latter of which may be adjudicated at this time.

DONE AND ORDERED this 24th day of September, 2009

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge