

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

KATHY O'NEAL,

Plaintiff,

vs.

CASE NO. 1:09CV61-MP/AK

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

Defendant.

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REPORT AND RECOMMENDATION

Plaintiff brings this cause pursuant to 42 U.S.C. § 405(g) seeking judicial review of the administrative denial of her application for disability insurance benefits under Title II of the Social Security Act and supplemental security income benefits under Title XVI of the Social Security Act. (Doc. 1). Defendant has moved to remand this matter (doc. 12) to the Commissioner under sentence four of 42 U.S.C. § 405(g) which provides that:

The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.

Defendant concedes that this action should be remanded to the Administrative Law Judge for additional action, and specifically requests that upon remand the Administrative Law Judge will perform a proper residual functional capacity determination and ensure that the RFC determination is consistent with the hypothetical posed to the vocational expert. This Court shall also enter a final judgment under Rule 58, Federal Rules of Civil Procedure.

Plaintiff has no objection to the motion to remand.

Accordingly, it is **RECOMMENDED** that Defendant's motion to remand (doc. 12) be **GRANTED**, and this cause **REMANDED** to the Commissioner for further proceedings by the Administrative Law Judge, as set forth above. It is also recommended that final judgment be entered.

IN CHAMBERS at Gainesville, Florida, this 18th day of May, 2009.

s/ A. KORNBLUM

ALLAN KORNBLUM
UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

A party may file specific, written objections to the proposed findings and recommendations within 15 days after being served with a copy of this report and recommendation. A party may respond to another party's objections within 10 days after being served with a copy thereof. Failure to file specific objections limits the scope of review of proposed factual findings and recommendations.