

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

KATHY O'NEAL,

Plaintiff,

v.

CASE NO. 1:09-cv-00061-MP-AK

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

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ORDER

This matter is before the Court on Doc. 13, Report and Recommendation of the Magistrate Judge, which recommends that Defendant's Motion to Remand (Doc. 12) be granted. Plaintiff is unopposed to Defendant's motion, and no party has filed an objection to the report and recommendation. Upon consideration, the Court finds that the report and recommendation should be adopted in full. Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. The Report and Recommendation of the Magistrate Judge (Doc. 13) is **ADOPTED** and incorporated herein, and the Motion for Remand (Doc. 12) 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 17th day of June, 2009

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge