

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

KENNETH C SHEPPARD,

Plaintiff,

v.

CASE NO. 1:09-cv-00115-MP-AK

MICHAEL J ASTRUE,

Defendant.

\_\_\_\_\_ /

**ORDER**

This matter is before the Court on Doc. 15, Report and Recommendation regarding Defendant's Motion to Remand, Doc. 14. Upon consideration, the Magistrate Judge recommends that the motion be granted, as the Defendant concedes a re-hearing is appropriate and Plaintiff does not object. There have been no objections to the Report and Recommendation itself. Accordingly, it is

**ORDERED AND ADJUDGED:**

1. The Magistrate Judge's Report and Recommendation, Doc. 15, is ADOPTED and incorporated herein, and the Motion for Remand, Doc. 14, 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 9th day of September, 2009

*s/Maurice M. Paul*

---

Maurice M. Paul, Senior District Judge