

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

RUSSELL R. BOGCESS,

Plaintiff,

v.

CASE NO. 1:09-cv-00126-MP-AK

MICHAEL J ASTRUE,

Defendant.

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ORDER

This matter is before the Court on Doc. 18, the Report and Recommendation of the Magistrate Judge, recommending that the Defendant's unopposed Motion to Remand the case (Doc. 17) be granted. The time for filing objections has passed, and none have been filed. The Court agrees that remand pursuant to sentence four of 42 U.S.C. § 405(g) is appropriate in this case. Accordingly it is hereby

ORDERED AND ADJUDGED:

1. The Report and Recommendation of the Magistrate Judge is adopted and incorporated herein.
2. The Motion to Remand, Doc. 17, is granted and this matter remanded to the Commissioner for further proceedings.
3. The Clerk is directed to enter a final judgment at this time.
4. 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. The Plaintiff shall file a motion to award fees under 406(b) within 14 days after counsel receives notice from the Defendant Commissioner as to Plaintiff's past due benefits. 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 2nd day of March, 2010

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge