

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

SAMUEL MOTT,

Plaintiff,

v.

CASE NO. 1:09-cv-00178-MP-WCS

MICHAEL J ASTRUE,

Defendant.

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ORDER

This matter is before the Court on Doc. 20, Report and Recommendation of the Magistrate Judge, recommending that the Court grant the Defendant's motion (Doc. 18) to remand the matter to the Commissioner for reconsideration of the unfavorable portion of the ALJ's decision. The Plaintiff had filed a response to Doc. 18, in which Plaintiff agreed to the remand, but more fully explained the parties' agreement as to the effect of the remand. Doc. 19. That is, both the Plaintiff and the Defendant request that this court enter a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure reversing the decision of the ALJ as it pertains to the time period September 22, 2004 through May 17, 2006, affirming the decision as to Mr. Mott's ongoing receipt of benefits after May 18, 2006, and remanding this case to the

Commissioner under sentence four of 42 U.S.C. § 405(g) for reconsideration of the time period September 22, 2004 through May 17, 2006.

Accordingly, it is hereby

ORDERED AND ADJUDGED:

The Report and Recommendation (Doc. 20) is adopted and incorporated herein.

The motion to remand, Doc. 18, is granted.

The Clerk is directed to enter final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure **REVERSING** the ALJ's decision as it pertains to the time period September 22, 2004 thru May 17, 2006, and **AFFIRMING** the decision as to Plaintiff's disability as of May 18, 2006, and **REMANDING** this case to the Commissioner under sentence four of 42 U.S.C. § 405(g). Upon remand the ALJ shall follow the instructions set forth in the Defendant's Memorandum in Support of his Motion to Remand for the time period September 22, 2004 thru May 17, 2006.

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 30 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 25th day of August, 2010

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge