

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

MARY KATHERINE DAY-PETRANO,

Plaintiff,

v.

CASE NO. 1:12-cv-00097-MP-CAS

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,
et al.,

Defendants.

ORDER

This matter is before the Court on the Mandate of the United States Court of Appeals for the Eleventh Circuit, Appeal No. 13-12062-E. (Doc. 48). The Court of Appeals dismissed plaintiff's appeal, *sua sponte*, for lack of jurisdiction holding that plaintiff "seeks to appeal from a magistrate judge's report and recommendation, which is not a final, appealable order." The Court of Appeals noted that "[t]he district court's subsequent adoption of the report and recommendation did not cure the premature notice of appeal."

The Court now has jurisdiction to consider the Magistrate Judge's Report and Recommendation dated April 2, 2013. (Doc. 37).

The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). The time for filing objections has passed, and none have been filed. Plaintiff has requested an extension of time to file objections but upon consideration the Court has determined that plaintiff has had ample opportunity to file objections.

Having considered the Report and Recommendation, and any objections thereto timely

filed, I have determined that the Report and Recommendation should be adopted.

Accordingly, it is hereby **ORDERED AND ADJUDGED:**

1. The Court's previous order and judgment adopting the magistrate judge's Report and Recommendation (docs. 40 and 41) are VACATED.
2. Plaintiff's motion for extension of time to file objections to the magistrate judge's Report and Recommendation (doc. 49) is DENIED.
3. The magistrate judge's Report and Recommendation is adopted and incorporated by reference in this order.
4. Defendant's motion to remand (doc. 32) is GRANTED and this case is remanded to the Commissioner of Social Security pursuant to sentence six of 42 U.S.C. § 405(g) for further proceedings by the Appeals Council.

DONE AND ORDERED this 18th day of June, 2013

s/Maurice M. Paul
Maurice M. Paul, Senior District Judge