

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

PATRICIA MCGRIFF,

Plaintiff,

v.

CASE NO. 4:08-cv-00438-MP-WCS

MICHAEL J ASTRUE,

Defendant.

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ORDER

This matter is before the Court on Doc. 18, Report and Recommendation of the Magistrate Judge, recommending that the court grant Defendant's motion for entry of judgment and remand, Doc. 15, pursuant to sentence four of 42 U.S.C. § 205(g). The time for filing objections has passed, and none have been filed. The Court agrees that remand is proper in this case. It is hereby

ORDERED AND ADJUDGED:

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 pursuant to sentence four of 42 U.S.C. §405(g) for the purposes stated in the motion and consistent with this report and recommendation.

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 20th day of November, 2009

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge