

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION

BEVERLY WILSON o/b/o JM,  
Plaintiff,

vs.

Case No.: 5:09cv20/SPM/EMT

MICHAEL J. ASTRUE,  
Commissioner of Social Security,  
Defendant.

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**REPORT AND RECOMMENDATION**

This action was initiated under the Social Security Act to obtain judicial review of Defendant's final decision denying Plaintiff's claim for disability benefits (Doc. 1). Now before the court is Defendant's Motion to Remand pursuant to sentence four of Title 42 U.S.C. § 405(g) (Doc. 29). Defendant has certified that Plaintiff has no objection to this motion (*id.*).

Sentence four of section 405(g) states that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." 42 U.S.C. § 405(g). In the instant case, the Commissioner states that remand is appropriate to enable an Administrative Law Judge to:

further consider[] step three of the childhood disability analysis. The ALJ will analyze the evidence at each tier of step three and set forth the reasoning that supports the ALJ's findings at each tier. Additionally, the ALJ will articulate the rationale for her determination of the credibility of Plaintiff and his mother.

(Doc. 29, Memorandum in Support at 1). Based upon the foregoing, this court concludes that good cause has been shown for remand.

Accordingly, it is respectfully **RECOMMENDED**:

1. That Defendant's Motion to Remand (Doc. 29) be **GRANTED**, and the

Commissioner's decision denying benefits be **REVERSED**.

2. That this case be **REMANDED** to the Commissioner of Social Security pursuant to sentence four of 42 U.S.C. § 405(g).

3. That Defendant be ordered to conduct proceedings in accordance with this Report and Recommendation.

4. That the clerk be directed to enter final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure

5. That the clerk be directed to administratively close this file.

At Pensacola, Florida, this 25<sup>th</sup> day of January 2010.

*/s/ Elizabeth M. Timothy*

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**ELIZABETH M. TIMOTHY**

**UNITED STATES MAGISTRATE JUDGE**

### **NOTICE TO THE PARTIES**

**Objections to these proposed findings and recommendations may be filed within fourteen (14) days after being served a copy thereof. Any different deadline that may appear on the electronic docket is for the court's internal use only, and does not control. A copy of objections shall be served upon the magistrate judge and all other parties. Failure to object may limit the scope of appellate review of factual findings. See 28 U.S.C. § 636; United States v. Roberts, 858 F.2d 698, 701 (11th Cir. 1988).**