

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-22902-CIV-GOLD/DUBÉ

IRA LANIER,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

REPORT AND RECOMMENDATION

THIS CAUSE is before this Court on the Motion to Remand filed by the Defendant (D.E. #12) pursuant to an Order of Reference entered by the Honorable Alan S. Gold, United States District Judge. This Court has reviewed the motion and the file in this cause.

The Plaintiff has filed a complaint seeking review of a decision denying his application for supplemental security income benefits. The present motion filed by the Defendant seeks to have this Court remand this cause to the Commissioner under sentence four of 42 U.S.C. §405 (g) for further review of the Plaintiff's claim. The motion indicates that the Plaintiff's counsel does not object to the relief sought. Thus, there is no dispute that the cause should be remanded or as to the nature of the further proceedings to be conducted before the Commissioner. Accordingly, based on the foregoing, this Court recommends as follows:

(1) The Motion to Remand (D.E. #12) be **GRANTED**; that Final Judgment under Rule 58, Federal Rules of Civil Procedure be entered and that this cause be Reversed and Remanded under sentence four of 42 U.S.C. §405(g) for the following proceedings:

(a) For the ALJ to specify visual limitations in a revised finding of residual functional capacity (RFC) consistent with a finding of left eye blindness;

(b) For the ALJ to properly consider whether, with the visual limitations noted in the RFC, the Plaintiff can perform work that exists in significant numbers in the national economy; and

(c) For the ALJ to obtain the testimony of a vocational expert.

Pursuant to Local Magistrate Rule 4(b), the parties have ten (10) days from service of this Report and Recommendation to serve and file written objections, if any, with the Honorable Alan S. Gold, United States District Judge. Failure to file timely objections shall bar the parties from attacking on appeal the factual findings contained herein. Loconte v. Dugger, 847 F.2d 745 (11th Cir. 1988), cert. denied, 488 U.S. 958 (1988); R.T.C. v. Hallmark Builders, Inc., 996 F.2d 1144, 1149 (11th Cir. 1993).

DONE AND ORDERED this 13 day of February, 2009.



ROBERT L. DUBÉ
UNITED STATES MAGISTRATE JUDGE