

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 09-22542-CIV-SEITZ/DUBE

MAGALY PINEDA,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security

Defendant.

ORDER AFFIRMING AND ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION

THIS MATTER is before the Court upon the Report and Recommendation [DE-13] of the Honorable Robert L. Dube, United States Magistrate Judge, to which no party has filed an objection. Magistrate Judge Dube recommends remanding the action to the Commissioner under sentence four of 42 U.S.C. §405(g) as Plaintiff has not opposed Defendant's motion to remand. After carefully reviewing, *de novo*, the record and pertinent legal authorities, the Report and Recommendation shall be affirmed and adopted. Accordingly, it is hereby

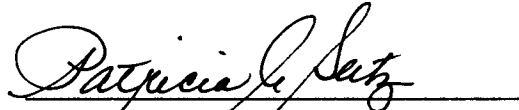
ORDERED that:

- (1) The Report and Recommendation of Magistrate Judge Robert L. Dube [DE-13] is AFFIRMED and ADOPTED;
- (2) Defendant's Motion to Remand [DE-12] is GRANTED and this cause is reversed and remanded under sentence four of 42 U.S.C. §405(g) for the following proceedings:
 - (a) For the ALJ to conduct further proceedings to determine whether alcoholism is a contributing factor material to the finding of disability, including appropriate findings and rationale in accordance with 20 C.F.R. § 416.935 and P.L. 104-21; and
 - (b) In the event the ALJ finds Plaintiff to be disabled considering the effects of drug addiction or alcoholism, the ALJ will proceed with an evaluation to determine which physical and mental limitations would remain if the Plaintiff stopped using drugs or alcohol and then determine

whether these remaining limitations are disabling, providing a clear statement of the residual functional capacity expressed in work-related terms.

(3) All pending motions not otherwise ruled upon are DENIED AS MOOT and this case is CLOSED.

DONE and ORDERED in Miami, Florida, this 21st day of January, 2010.



PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc:
Counsel of Record