

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

Case No.: 09-CV-81455-RYSKAMP/LYNCH

SHEDRICK McRAE,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social
Security Administration,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

THIS CAUSE comes before the Court on the report and recommendation of United States Magistrate Judge Frank J. Lynch, Jr. [DE 20] entered on July 6, 2010. Pending before Judge Lynch was plaintiff's motion for summary judgment [DE 15]. After reviewing the motion, briefs, applicable law, and pertinent portions of the record, Magistrate Judge Lynch recommended that plaintiff's motion for summary judgment be granted and that the ALJ's decision be vacated and remanded for reconsideration in accordance with Magistrate Judge Lynch's instructions. No objections have been filed and the time to do so has now passed.

The Court has conducted a *de novo* review of the report and has carefully considered the motion, applicable law, and pertinent portions of the record. Accordingly, it is hereby


ORDERED AND ADJUDGED that

- (1) The report [DE 20] of United States Magistrate Judge Frank J. Lynch, Jr. is **RATIFIED, AFFIRMED** and **APPROVED** in its entirety;
- (2) The ALJ's decision is **VACATED AND REMANDED** for reconsideration;

- (3) In accordance with Magistrate Judge Lynch's instructions, the ALJ shall solicit vocational testimony as to whether, under the assessed RFC, the plaintiff can perform his past job as a cook; and
- (4) The Clerk of Court is directed to **CLOSE THIS CASE** and to **DENY** any pending motions as **MOOT**.

DONE AND ORDERED in Chambers at West Palm Beach, Florida this 30 day of July,

2010.


KENNETH L. RYSKAMP
UNITED STATES DISTRICT JUDGE