

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ELAINE M. SMITH,

Plaintiff,

vs

3:08-CV-1341

MICHAEL J. ASTRUE, Commissioner
of Social Security Administration,

Defendant.

APPEARANCES:

OF COUNSEL:

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SANDRA M. GROSSFELD, ESQ.

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, Elaine M. Smith, filed this action in December 2008, seeking judicial review of the Commissioner's decision pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3). By Report-Recommendation dated June 21, 2010, the Honorable Victor E. Bianchini, United States Magistrate Judge, recommended that the decision of the Commissioner be reversed and that the case be remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with the Report and Recommendation. No objections have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Bianchini, the Report-Recommendation is accepted and adopted in whole.

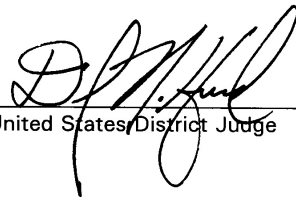
See 28 U.S.C. 636(b)(1). Accordingly, it is

ORDERED that

1. The decision of the Commissioner is REVERSED;
2. The case is REMANDED to the Commissioner for further administrative proceedings consistent with the Report and Recommendation and pursuant to sentence four of 42 U.S.C. Section 405(g).

IT IS SO ORDERED.

Dated: July 7, 2010
Utica, New York.



United States District Judge