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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDICE BAILEY, obo C.C. (a child),	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-11-4232
	§	
MICHAEL J. ASTRUE, Commissioner of the Social Security Administration,	§	
	§	
Defendant.	§	

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION AND REMANDING CASE

This court has reviewed the Memorandum and Recommendation on Cross-Motions for Summary Judgment of the United States Magistrate Judge signed on January 28, 2013 and made a *de novo* determination. Rule 72(b), Fed. R. Civ. P.; 28 U.S.C. § 636(b)(1)(C); *United States v. Wilson*, 864 F.2d 1219 (5th Cir. 1989). Based on the pleadings, the record, and the applicable law, the court adopts the Memorandum and Recommendation as this court's Memorandum and Order. This court finds and concludes that the decision denying SSI disability benefits was not supported because the Appeals Division did not consider or apply the revised Listing 109.08 to C.C.'s case. Remand is required so that the right to benefits under the revised, current version of Listing 109.08 may be fully considered and addressed. Accordingly, the plaintiff's motion for summary judgment is granted and the defendant's motion is denied. This matter is remanded.

SIGNED on February 13, 2013, at Houston, Texas.

Lee H. Rosenthal
United States District Judge

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