
**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

<p>RACHAEL A. LUTES</p> <p style="text-align:center">Plaintiff,</p> <p>vs.</p> <p>MICHAEL J. ASTRUE, Commissioner of Social Security,</p> <p style="text-align:center">Defendant.</p>	<p>Case No. 2:08 CV 310 CW-BCW</p> <p style="text-align:center">REPORT AND RECOMMENDATION</p> <p>Judge Clark Waddoups</p> <p>Magistrate Judge Brooke C. Wells</p>
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On August 26, 2009, this case was referred to the undersigned by Judge Clark Waddoups pursuant to [28 U.S.C. § 636\(b\)\(1\)\(B\)](#). On this same date and in accordance with standard practice, the court entered an order seeking a joint statement from the parties regarding consent pursuant to [28 U.S.C. § 636\(c\)](#) and Federal Rule 73.¹

After reviewing the history of this matter, the court notes that on July 22, 2009, prior to this case being referred from Judge Waddoups, Defendant filed a Motion to Remand Pursuant to [42 U.S.C. § 405\(g\)](#).² Defendant states that the Appeals Council “further reviewed Plaintiff’s case and determined that a remand for further proceedings is appropriate.”³ Thus, if the court grants the motion “the Appeals Council will remand the matter to an Administrative Law Judge (ALJ) to hold a de novo hearing and issue a new decision regarding Plaintiff’s eligibility for Supplemental Security Income.”⁴ “Plaintiff, through Virginius Dabney, Esq., her counsel of record, was contacted and does not object

¹ Docket no. 13.

² Docket no. 10.

³ Motion p. 1.

⁴ *Id.* at p. 1-2.

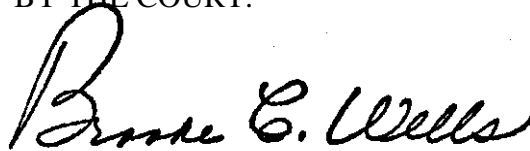
to remand of this case.”⁵

Accordingly, the court RECOMMENDS that Defendant’s motion to remand be GRANTED and this case be remanded to the Social Security Administration.

Copies of this report and recommendation are being mailed to all parties who are hereby notified of their right to object. Any objection must be filed within ten days after receiving this Report and Recommendation. Failure to object may constitute a waiver of objections upon subsequent review.

DATED this 31st day of August, 2009.

BY THE COURT:

A handwritten signature in black ink that reads "Brooke E. Wells". The signature is written in a cursive style with a large initial "B".

Magistrate Judge Brooke Wells

⁵ *Id.* at p. 2.