

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

RACHEL A. LUTES

Plaintiff,

vs.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

ORDER

Case No. 2:08-cv-0310 CW

District Judge Clark Waddoups

Magistrate Judge Brooke C. Wells

This case was assigned to United States District Court Judge Clark Waddoups, who then referred it to United States Magistrate Brooke C. Wells under 28 U.S.C. § 636(b)(1)(B). On July 22, 2009, Defendant filed a motion to remand this case to the Social Security Administration. Ms. Lutes did not object to this motion. On August 31, 2009, the Magistrate Judge issued a Report and Recommendation, recommending the motion be granted. Neither party objected to that report and recommendation within the ten days as allowed by the rules. Now before the court are Defendant's motion and Judge Wells' recommendation.

After reviewing the record, the court hereby ORDERS as follows:

The Commissioner's denial of benefits to Plaintiff is reversed. The court makes no findings with regard to the merits of Plaintiff's claim in this action. Pursuant to sentence four of 42 U.S.C. § 405(g), this case is remanded to the Commissioner for further administrative proceedings. Upon remand, the Appeals Council shall remand the matter to an Administrative Law Judge to hold a *de novo* hearing and issue a new decision regarding Plaintiff's eligibility for Supplemental Security Income. The Council shall direct the ALJ to consider the impact of the

favorable determination issued by the State Disability Determination Service in a subsequently filed claim. In this regard, the Council shall also direct that the ALJ determine a disability onset date in accordance with Social Security Ruling 83-20.

Final judgment shall be entered terminating this action in accordance with Federal Rule of Civil Procedure 58, consistent with *Shalala v. Schaefer*, 509 U.S. 292. 296-302 (1993).

SO ORDERED this 22nd day of September, 2009.

BY THE COURT:



Clark Waddoups
United States District Judge