

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

MARK MASHBURN,

Plaintiff,

vs.

Case No. 3:17-cv-1202-J-32JBT

NANCY BERRYHILL, Acting Commissioner
of the Social Security Administration,

Defendant.

ORDER

This case is before the Court on plaintiff's appeal of an administrative decision denying his application for a period of disability, disability insurance benefits and supplemental security income under the Social Security Act (Doc. 1). The parties filed briefs and the administrative record and, upon review of these filings, the assigned United States Magistrate Judge issued a Report and Recommendation (Doc. 18) recommending that the Commissioner's decision be reversed and that the case be remanded for further proceedings. The Commissioner did not file any objections to the Report and Recommendation and the time in which to do so has now passed.

Accordingly, upon independent review of the file and for the reasons stated in the Report and Recommendation issued by the Magistrate Judge (Doc. 18), it is hereby

ORDERED:

1. The Report and Recommendation (Doc. 18) of the Magistrate Judge is **ADOPTED** as the opinion of the Court.

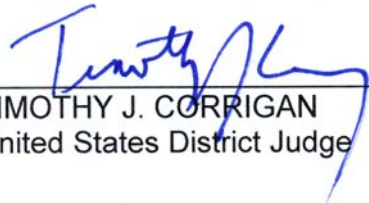
2. Pursuant to sentence four of 42 U.S.C. § 405(g), this case is hereby **REVERSED** and **REMANDED** to the Commissioner of Social Security for reevaluation of plaintiff's claim. Upon remand, the ALJ shall (a) re-evaluate the opinions of Dr. deGracia-Wylie; (b) re-evaluate the opinions of Dr. Baptiste-Boles; (c) reconsider plaintiff's residual functional capacity if appropriate; and (d) conduct any further proceedings deemed appropriate.

3. Counsel for the Commissioner is directed to ensure that the ALJ receives a copy of the Magistrate Judge's Report and Recommendation (Doc. 18).

4. If the remand results in the award of benefits, pursuant to Federal Rule of Civil Procedure 54(d)(2)(B), plaintiff's attorney is sua sponte **granted** an extension of time in which to file a petition for authorization of attorney's fees under 42 U.S.C. § 406(b) until **thirty days** after the date of the Commissioner's letter sent to plaintiff's counsel of record at the conclusion of the Agency's past-due benefit calculation stating the amount withheld for attorney's fees. See In re: Procedures For Applying For Attorney's Fees Under 42 U.S.C. §§ 406(b) and 1383(d)(2), Case No. 6:12-mc-124-Orl-22 (M.D. Fla. Nov. 13, 2012). The time limits for filing a motion for attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412 are not affected by this extension.

5. The Clerk is hereby directed to enter judgment accordingly and to **close** the file.

DONE AND ORDERED at Jacksonville, Florida this 20th day of July, 2018.



TIMOTHY J. CORRIGAN
United States District Judge

s.

Copies:

Honorable Joel B. Toomey
United States Magistrate Judge

counsel of record