

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

STEVEN SHERMAN,

Plaintiff,

vs.

Case No. 2:09-cv-319-FtM-29SPC

MICHAEL J. ASTRUE, Commissioner of  
Social Security,

Defendant.

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**OPINION AND ORDER**

This matter is before the Court on consideration of Magistrate Judge Sheri Polster Chappell's Report and Recommendation (Doc. #22), filed on June 5, 2009, recommending that the Commissioner's decision to deny social security disability benefits be affirmed. No objections have been filed, and the time to do so has expired. For the reasons set forth below, the Court accepts the Report and Recommendation and affirms the decision of the Commissioner.

The Court reviews the Commissioner's decision to determine if it is supported by substantial evidence and based upon proper legal standards. Crawford v. Comm'r of Soc. Sec., 363 F.3d 1155, 1158 (11th Cir. 2004). Substantial evidence is more than a scintilla but less than a preponderance, and is such relevant evidence as a reasonable person would accept as adequate to support a conclusion.

Moore v. Barnhart, 405 F.3d 1208, 1211 (11th Cir. 2005); Crawford, 363 F.3d at 1158. Even if the evidence preponderates against the Commissioner's findings, the Court must affirm if the decision reached is supported by substantial evidence. Crawford, 363 F.3d at 1158-59. The Court does not decide facts anew, make credibility judgments, reweigh the evidence, or substitute its judgment for that of the Commissioner. Moore, 405 F.3d at 1211; Dyer v. Barnhart, 395 F.3d 1206, 1210 (11th Cir. 2005). The magistrate judge, district judge and appellate judges all apply the same legal standards to the review of the Commissioner's decision. Dyer, 395 F.3d at 1210; Shinn v. Comm'r of Soc. Sec., 391 F.3d 1276, 1282 (11th Cir. 2004); Phillips v. Barnhart, 357 F.3d 1232, 1240 n.8 (11th Cir. 2004).

The Report and Recommendation found that the Administrative Law Judge (ALJ) properly assessed plaintiff's credibility, correctly applied the Eleventh Circuit pain standard, and properly utilized the Grids. After a review of the record, the Court agrees.

Accordingly, it is now


**ORDERED:**

1. The Report and Recommendation (Doc. #22) is **accepted and adopted** by the Court.
2. The Decision of the Commissioner of Social Security is **affirmed**.

3. The Clerk of the Court shall enter judgment accordingly and close the file.

**DONE AND ORDERED** at Fort Myers, Florida, this 26th day of June, 2009.

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**JOHN E. STEELE**  
United States District Judge

Copies:  
Hon. Sheri Polster Chappell  
U.S. Magistrate Judge

Counsel of Record