

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MICHAEL N. STEWART,

Plaintiff,

v.

Case No. 8:11-cv-871-T-33EAJ

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

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ORDER

This matter is before the Court on consideration of United States Magistrate Judge Elizabeth A. Jenkins' Report and Recommendation (Doc. # 20), entered on July 10, 2012, substantially agreeing with the decision of the Commissioner of Social Security denying social security benefits but recommending that the Commissioner's decision be reversed and this matter remanded for additional fact-finding related to the Plaintiff's residual functional capacity. As of this date, neither party has filed an objection to the Report and Recommendation, and the time for the parties to file such objections has elapsed.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and

recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983).

In the absence of specific objections, there is no requirement that a district judge review factual findings de novo, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations, 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions de novo, even in the absence of an objection. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994) (Table).

After conducting a careful and complete review of the findings, conclusions and recommendations, and giving de novo review to matters of law, the Court accepts the factual findings and legal conclusions of the magistrate judge, and the recommendation of the magistrate judge.


Accordingly, it is now

ORDERED, ADJUDGED, and DECREED:

- (1) United States Magistrate Judge Elizabeth A. Jenkins' Report and Recommendation (Doc. # 20), entered on July 10, 2012, is **ACCEPTED** and **ADOPTED**.

- (2) The decision of the Commissioner of Social Security is **REVERSED** and the case **REMANDED** for further proceedings consistent with the Report and Recommendation.
- (3) The Clerk is directed to enter final judgment in accordance with 42 U.S.C. § 405(g) as a "sentence four" remand and thereafter close the file, with each party to bear his own fees and costs.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 1st day of August, 2012.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies to: All Counsel of Record