

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION
AT COVINGTON**

CIVIL ACTION NO. 13-118-DLB-CJS

AMY L. WALKER

PLAINTIFF

vs.

OPINION AND ORDER

**CAROLYN W. COLVIN, Acting
Commissioner of Social Security**

DEFENDANT

This matter is before the Court on Plaintiff's Motion for Summary Judgment (Doc. #16), Defendant's Motion for Summary Judgment (Doc. #17), and the Report and Recommendation of the Magistrate Judge (Doc. #18).

Plaintiff brought this action under 42 U.S.C. § 405(g) to challenge Defendant's final decision to deny Plaintiff's application for Supplemental Security Income and Disability Insurance Benefits. The Court referred the matter to the United States Magistrate Judge for consideration pursuant to 28 U.S.C. § 636(b). On September 19, 2014, the Magistrate Judge filed her Report and Recommendation, wherein she adopted Plaintiff's argument and found that the ALJ did error, in several respects, in considering Plaintiff's physical and mental impairments. As such, the Magistrate Judge recommended that Defendant's Motion for Summary Judgment be denied, Plaintiff's Motion for Summary Judgment be granted in part, and the matter be remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further consideration.

Neither party filed objections to the Magistrate Judge's Report and Recommendation, and the time for filing any objections having now expired, the R&R is ripe for review. Although this Court must make a *de novo* determination of those portions of the Magistrate Judge's Report and Recommendation to which objection is made, see U.S.C. § 636(b)(1)(c), "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings." *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Moreover, a party who fails to file objections with the court to a magistrate judge's report and recommendation waives the right to appeal. See *Wright v. Holbrook*, 794 F.2d 1152, 1154-55 (6th Cir. 1986). Nevertheless, the Court, having examined the record and having made a *de novo* determination, is in agreement with the Magistrate Judge's Report and Recommendation in this case.

Accordingly, **IT IS ORDERED** as follows:

(1) The Report and Recommendation of the Magistrate Judge (Doc. #18) is hereby **adopted** as the Opinion of this Court;

(2) Defendant's Motion for Summary Judgment (Doc. #17) is hereby **denied**;

(3) Plaintiff's Motion for Summary Judgment (Doc. #16) is hereby **granted in part** as to Plaintiff's request for a reversal of the ALJ's decision and remand, and **denied in part** to the extent Plaintiff requests a court-ordered award of benefits; and

(4) The ALJ's decision is hereby **reversed** and **remanded** pursuant to sentence four of 42 U.S.C. § 405(g), with instructions to reconsider Plaintiff's physical and mental impairments, consistent with the Report and Recommendation.

This 9th day of October, 2014.



Signed By:

David L. Bunning *DB*

United States District Judge

G:\DATA\SocialSecurity\Orders\Covington\02-13-118 Order&JudgmentAdoptingR&R.wpd