

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

DAWN S.,)	
)	
PLAINTIFF)	
)	
v.)	
)	CIVIL No. 2:17-cv-391-DBH
NANCY A. BERRYHILL, ACTING)	
COMMISSIONER, SOCIAL SECURITY)	
ADMINISTRATION,)	
)	
DEFENDANT)	

**ORDER AFFIRMING RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE**

On August 16, 2018, the United States Magistrate Judge filed with the court, with copies to counsel, his Report and Recommended Decision. The defendant filed an objection to the Recommended Decision on August 23, 2018. I have reviewed and considered the Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in the Recommended Decision, as clarified below, and determine that no further proceeding is necessary.

There is ambiguity as to whether Dr. Hall's (the non-examining physician's) reference to a need for a consultative examination, R. 161, in his opinion dated February 14, 2015, R. 165,169, was referring to the need for an additional and later examination (which the Commissioner never procured but

the plaintiff did); or was referring to the January 23, 2015, consultative examination that the Commissioner had just obtained from Dr. Phelps on January 26, 2015, R. 158, which Dr. Hall did possess and referred to. R.161. Even if the Commissioner is correct that Dr. Hall on February 14 was not expressing the need for an *additional* consultative examination, the remaining deficiencies in the Administrative Law Judge's treatment of the evidence, as detailed by the Magistrate Judge, support vacating and remanding the decision.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **ADOPTED**. The Commissioner's decision is **VACATED** and the case **REMANDED** for further proceedings.

SO ORDERED.

DATED THIS 11TH DAY OF SEPTEMBER, 2018

/s/D. BROCK HORNBY

D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE