

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

JUSTIN P.,	)	
	)	
Plaintiff	)	
	)	
v.	)	2:23-cv-00053-LEW
	)	
MARTIN O'MALLEY, Commissioner	)	
of Social Security,	)	
	)	
Defendant	)	

**ORDER AFFIRMING RECOMMENDED DECISION**

On February 5, 2024, the United States Magistrate Judge filed with the court, with copies to counsel, her Report and Recommended Decision. Plaintiff filed an objection, to which the Commissioner has responded. I have reviewed and considered the Recommended Decision, Objection, and Response to the Objection, 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, and determine that no further proceeding is necessary. In addition to the sound recommendation of the Magistrate Judge I offer one additional observation.

The Objection presents the question of whether it was reasonable for the Administrative Law Judge to rely on vocational expert testimony presented at the hearing of the existence of over one-quarter of a million cleaning jobs in the national economy, even though Plaintiff presented the ALJ with the post-hearing opinion of another

vocational expert who stated that for some of the identified jobs interaction with the public would be important. The post-hearing vocational expert opinion posits that the importance of public interaction for some subset of these jobs means Plaintiff could not perform any of them, which is a fallacy. The obvious implication of the evidence on which the post-hearing opinion relies, assuming it is given any weight, is that Plaintiff's inability to interact with the public would result in some measure of attrition in the number of available cleaning jobs, not wholesale elimination of all such jobs. Given the substantial number of cleaning jobs identified at the hearing, the post-hearing evidence does not merit a remand because remand on that basis would be an empty exercise.

It is therefore ORDERED that the Recommended Decision of the Magistrate Judge is hereby AFFIRMED and ADOPTED. The administrative decision is AFFIRMED.

**SO ORDERED.**

Dated this 26th day of March, 2024

/s/ Lance E. Walker  
Chief U.S. District Judge