UNITED STATES DISTRICT COURT DISTRICT OF MAINE

| KENNETH W., |) |
|----------------------------------|---------------------|
| on behalf of MATTHEW W. |) |
| Plaintiff, |) |
| v. |) 2:23-cv-00204-JDL |
| MARTIN O'MALLEY,1 |) |
| Commissioner of Social Security, |) |
| Defendant. |) |

ORDER ACCEPTING THE RECOMMENDED DECISION OF THE MAGISTRATE JUDGE

Kenneth W. seeks judicial review of the Social Security Administration Commissioner's final decision determining that Matthew W., who is deceased, was not disabled and denying his application for Disability Insurance Benefits (ECF No. 5-2 at 14-55). Pursuant to 28 U.S.C.A. § 636(b)(3) (West 2024) and D. Me. Local R. 16.3(a)(2)(C), United States Magistrate Judge Karen Frink Wolf held a hearing on Plaintiff's Statement of Errors (ECF No. 8) on December 13, 2023 (ECF No. 16). The Magistrate Judge filed her Report and Recommended Decision with the Court on January 25, 2024 (ECF No. 17), recommending that the Court affirm the Commissioner's decision. Plaintiff timely objected to the Recommended Decision on February 8, 2024 (ECF No. 18). The Commissioner filed a Response to the Plaintiff's

¹ Martin O'Malley became the Commissioner of Social Security on December 20, 2023. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Martin O'Malley is substituted for his predecessor, former Acting Commissioner Kilolo Kijakazi, as the defendant in this suit. See also 42 U.S.C.A. § 405(g) (West 2024) ("Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.").

Objection on February 15, 2024 (ECF No. 19); Plaintiff filed a Reply on February 21,

2024 (ECF No. 21); and, with the Court's permission, the Commissioner filed a

Sur-reply (ECF No. 27) and an Amended Response to Plaintiff's Objection (ECF No.

28) on March 18, 2024.

After reviewing and considering the Recommended Decision, together with

the entire record, I have made a *de novo* determination of all matters adjudicated by

the Magistrate Judge. I concur with the Magistrate Judge's conclusions as set forth

in her Recommended Decision and determine that no further proceeding is necessary.

In so concluding, I emphasize that (1) SSR 96-9p, 1996 WL 374185 (July 2, 1996) does

not categorically require Administrative Law Judges to consider all post-hearing

submissions related to vocational evidence, and (2) Administrative Law Judges may

set and enforce reasonable deadlines for the submission of post-hearing evidence and

briefs, including additional vocational evidence.

It is therefore **ORDERED** that the Recommended Decision (ECF No. 17) of

the Magistrate Judge is hereby ACCEPTED, and the Commissioner's decision (ECF

No. 5-2 at 14-55) is **AFFIRMED**.

SO ORDERED.

Dated this 19th day of April, 2024.

/s/ Jon D. Levy

U.S. DISTRICT JUDGE

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