

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

DANIELLE MACMILLAN,

Plaintiff,

-against-

1:07-CV-0959 (LEK/VEB)

MICHAEL J. ASTRUE, Commissioner  
of Social Security,

Defendant.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on October 13, 2009, by the Honorable Victor E. Bianchini, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 20).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Bianchini's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 20) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

**ORDERED**, that Defendant's Motion (Dkt. Nos. 10, 13 ) for judgment on the pleadings is **DENIED**; and it is further

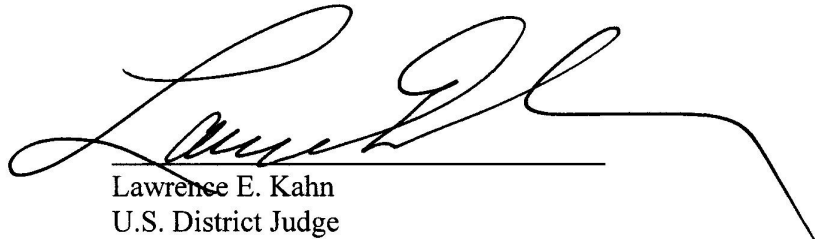
**ORDERED**, that Plaintiffs' Motion (Dkt. No. 8) is **GRANTED** in part and **DENIED** in part; and it is further

**ORDERED**, that Plaintiff's Complaint (Dkt. No. 1) is **REMANDED** for reconsideration consistent with the Report-Recommendation (Dkt. No. 20); and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: December 07, 2009  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge