

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**DONNA S. K.,**

**Plaintiff,**

**v.**

**5:21-cv-724  
(TJM/TWD)**

**COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**DECISION and ORDER**

This matter was referred to the Hon. Thérèse Wiley Dancks, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Rule 72.3(d) of the Local Rules of the Northern District of New York. In an Order and Report-Recommendation dated August 25, 2022, Judge Dancks recommends that Plaintiff's motion for judgment on the pleadings (Dkt. No. 16), be granted in part; that Defendant's motion for judgment on the pleadings (Dkt. No. 22) be denied in part; and that the ALJ's decision denying Plaintiff disability benefits be vacated and the case remanded pursuant to sentence four of 42 U.S.C. § 405(g) for proceedings consistent with the Order and Report-Recommendation. Dkt. No. 23. No objections have been filed to the recommendations, and the time to do so has expired.

**CONCLUSION**

After examining the record, this Court has determined that the Order and Report-

Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, the Order and Report-Recommendation, Dkt. No. 23, is **ACCEPTED** and **ADOPTED**.

Thus, it is hereby

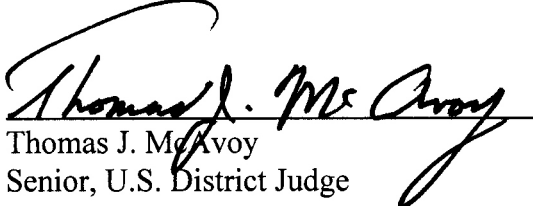
**ORDERED** that Plaintiff's motion for judgment on the pleadings (Dkt. No. 16) is **GRANTED IN PART**; and it is further

**ORDERED** that Defendant's motion for judgment on the pleadings (Dkt. No. 22) is **DENIED IN PART**; and it is further

**ORDERED** that the ALJ's decision denying Plaintiff disability benefits is **VACATED** and the case is **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for proceedings consistent with this Decision and Order and Judge Dancks' Order and Report-Recommendation.

**IT IS SO ORDERED.**

Dated: September 28, 2022

  
Thomas J. McAvoy  
Senior, U.S. District Judge