Cooper v. Berryhill Doc. 21

IIN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA BIG STONE GAP DIVISION

LISA MARIE COOPER,)	
Plaintiff,)	Case No. 2:19CV00022
v.)	OPINION AND ORDER
ANDREW SAUL, COMMISSIONER OF)	By: James P. Jones
SOCIAL SECURITY,)	United States District Judge
Defendant.)	

Karl E. Osterhout, OSTERHOUT DISABILITY LAW LLC, Oakmont, Pennsylvania, and Robert W. Gillikin, II, RUTTERMILLS, LLP., Norfolk, Virginia, for Plaintiff; Robert Drum, Special Assistant United States Attorney, SOCIAL SECURITY ADMINISTRATION, Philadelphia, Pennsylvania, for Defendant.

Objections have been timely filed by the plaintiff to the Report submitted by the magistrate judge recommending that the final decision of the Commissioner of Social Security denying the plaintiff's claim for disability insurance benefits under the Social Security Act (the "Act") be upheld. The case was referred to the magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and subject-matter jurisdiction of this court exists under 42 U.S.C. § 405(g). The Commissioner has responded to the Objections and the Report is ripe for consideration in light of the Objections.

I must make a de novo determination of those portions of the Report to which the plaintiff objects. See 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). Under the Act, I must uphold the factual findings and final decision of the Commissioner if they are

supported by substantial evidence and were reached through application of the correct legal

standard. See Coffman v. Bowen, 829 F.2d 514, 517 (4th Cir. 1987).

In her Objections, the plaintiff reiterates her argument made to the magistrate judge

that the administrative law judge improperly relied upon a vocational expert's opinion

testimony without recognizing or resolving its conflict with language of the Dictionary of

Occupational Titles.

Based upon my careful consideration of the Objections, the record, and the

arguments of counsel, and for the reasons stated by the Commissioner in his response, I

will overrule the Objections.

Accordingly, it is **ORDERED** as follows:

1. The Report and its findings and recommendations are wholly ACCEPTED

and APPROVED; and

2. Plaintiff's Motion for Summary Judgment is DENIED, and Defendant's

Motion for Summary Judgment is GRANTED.

A final judgment will be entered herewith.

ENTER: September 29, 2020

/s/ JAMES P. JONES

United States District Judge

-2-