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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Michael Alan McKenzie,)	No. CV 11-784-TUC-FRZ (JR)
)	
Plaintiff,)	ORDER
)	
v.)	
)	
Carolyn W. Colvin, ¹ Acting)	
Commissioner of Social Security,)	
)	
Defendant.)	

Plaintiff Michael Alan McKenzie filed this action pursuant to 42 U.S.C. § 405(g) of the Social Security Act for judicial review of the final decision of the Commissioner of the Social Security Administration, denying his application for Social Security disability insurance benefits under Title II of the Social Security Act, 42 U.S.C. §§ 401-433. Plaintiff’s appeal raises four issues challenging the denial of benefits.

This matter was referred to the United States Magistrate Judge for all pretrial proceedings and report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) and LRCiv 72.1 and LRCiv 72.2, Rules of Practice of the United States District Court for the District of Arizona.

On July 25, 2013, Magistrate Judge Jacqueline M. Rateau issued her Report and Recommendation, recommending that the District Court, after its independent review of the

1. Carolyn W. Colvin became the Acting Commissioner of Social Security on February 14, 2013. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin should be substituted for Michael J. Astrue as the defendant in this suit.

1 record herein, remand this case to the Administrative Law Judge for further proceedings. The
2 Report and Recommendation provides a thorough factual background and medical history and
3 an in-depth legal analysis of the claims under the applicable legal standards, carefully
4 considering the evidence presented at the administrative level and the findings of the ALJ.

5 The Magistrate Judge specifically recommends that, “[o]n remand, the ALJ must
6 reevaluate Dr. Rau’s non-exertional limitations and, in light of that reevaluation, determine
7 whether the testimony of a [vocational expert] is required” and “if the ALJ rejects the lay
8 witness statements of Plaintiff’s family members, he must provide proper and germane reasons
9 for doing so.”

10 The Report and Recommendation advised the parties that they may file written
11 objections within fourteen (14) days from the date of service of a copy of the Report and
12 Recommendation. *See* 28 U.S.C. § 636(b)(1) and Rules 72(b) of Federal Rules of Civil
13 Procedure. No objections were filed.

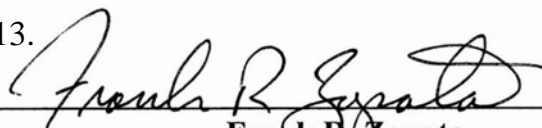
14 The Court finds, after consideration of all matters presented and an independent review
15 of the record herein, that the findings of the Magistrate Judge as set forth in the Report and
16 Recommendation, shall be accepted and adopted as the findings of fact and conclusions of law
17 of this Court. Accordingly,

18 **IT IS HEREBY ORDERED** that Magistrate Judge Rateau’s Report and
19 Recommendation (Doc. 18) is **ACCEPTED** and **ADOPTED** as the findings of fact and
20 conclusions of law by this Court;

21 **IT IS FURTHER ORDERED** that Plaintiff’s claim for benefits is **REMANDED** to the
22 Commissioner of the Social Security Administration for further proceedings in accordance with
23 the Report and Recommendation;

24 **IT IS FURTHER ORDERED** that judgment be entered accordingly.

25
26 DATED this 29th day of August, 2013.

27 
28 **Frank R. Zapata**
Senior United States District Judge