

IN THE UNITED STATES DISTRICT COURT
WESTERN DISCTRICK OF ARKANSAS
TEXARKANA DIVISION

MARK COCHRAN

PLAINTIFF

VS.

CASE NO. 4:12-cv-04027

MICHAEL J. ASTRUE
Commissioner of Social Security Administration

DEFENDANT

ORDER

Before the Court is the Report and Recommendation filed on February 26, 2013 by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 13). Judge Bryant has examined Plaintiff's Appeal (ECF No. 10) and Defendant's Response (ECF No. 12), concerning the ALJ's decision to deny Plaintiff disability benefits, and recommends that the ALJ's decision be affirmed. Plaintiff has filed an objection to Judge Bryant's report. (ECF No. 17). After conducting a *de novo* review of the record, the Court adopts Judge Bryant's Report and Recommendation as its own.

Plaintiff alleges that he is disabled and, therefore, eligible for Disability Insurance Benefits. On September 15, 2010, an administrative hearing was held at Plaintiff's request. On October 21, 2010, the ALJ denied Plaintiff's application for disability benefits. On appeal of that decision, Plaintiff argues that the ALJ erred in his analysis of the five-step determination, and that the ALJ's RFC finding was flawed. After reviewing the evidence presented, Judge Bryant recommends that the ALJ's decision be affirmed because the evidence supports the ALJ's conclusions.

Plaintiff objects to Judge Bryant's recommendation and argues the ALJ's decision should be reversed and remanded because the magistrate erroneously concluded that Plaintiff's medical record does not substantiate his claim that his back pain is aggravated by "prolonged sitting and standing;" and that his allowance of frequent, unscheduled breaks while employed with his condition from 2007 to 2009 "cannot be considered a competitive work situation." (ECF No. 17). However, the evidence presented in Plaintiff's objection does not justify such a conclusion.

Plaintiff is allowed judicial review of the final decision of the Commissioner of Social Security pursuant to 42 U.S.C. § 405(g). An ALJ's findings should be affirmed if supported by "substantial evidence on the record as a whole." *Beckley v. Apfel*, 152 F.3d 1056, 1059 (8th Cir.1998). A review of an ALJ's determination consists of "more than an examination of the record for the existence of substantial evidence in support of the Commissioner's decision...[and takes] into account whatever in the record fairly detracts from that decision." *Id.* Further, if there is substantial evidence in the record to support the decision, it cannot be reversed "simply because substantial evidence exists in the record that would have supported a different outcome." *Haley v. Massanari*, 258 F.3d 742, 747 (8th Cir. 2001) (quoting *Shannon v. Chater*, 54 F.3d 484, 486 (8th Cir.1995)).

In this case, a review of the record reveals there is substantial evidence to support the ALJ's decision, as concluded in Judge Bryant's Report. Plaintiff's objection essentially presents many of the same arguments and evidence submitted in his appeal brief, such as his extensive medical history. Judge Bryant correctly concluded such evidence is insufficient to overcome the ALJ's determination. Further, Plaintiff provides no authority to support his assertion that his employment situation from 2007 to 2009 should be considered non-competitive. Accordingly,

the Court adopts Judge Bryant's Report and Recommendation in its entirety. The ALJ's decision is hereby **AFFIRMED**.

IT IS SO ORDERED, this 15th day of May, 2013.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge