

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

MARILYN J. HATCHER,

Plaintiff,

vs.

Case No. 2:11-cv-463-FtM-29DNF

MICHAEL J. ASTRUE, Commissioner of  
Social Security,

Defendant.

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**OPINION AND ORDER**

This matter is before the Court on consideration of Magistrate Judge Douglas N. Frazier's Report and Recommendation (Doc. #24), filed on August 21, 2012, recommending that the Commissioner's decision to deny social security disability benefits be affirmed. No objections have been filed, and the time to do so has expired.

The Court reviews the Commissioner's decision to determine if it is supported by substantial evidence and based upon proper legal standards. Crawford v. Comm'r of Soc. Sec., 363 F.3d 1155, 1158 (11th Cir. 2004). Substantial evidence is more than a scintilla but less than a preponderance, and is such relevant evidence as a reasonable person would accept as adequate to support a conclusion. Moore v. Barnhart, 405 F.3d 1208, 1211 (11th Cir. 2005); Crawford, 363 F.3d at 1158. Even if the evidence preponderates against the Commissioner's findings, the Court must affirm if the decision

reached is supported by substantial evidence. Crawford, 363 F.3d at 1158-59. The Court does not decide facts anew, make credibility judgments, reweigh the evidence, or substitute its judgment for that of the Commissioner. Moore, 405 F.3d at 1211; Dyer v. Barnhart, 395 F.3d 1206, 1210 (11th Cir. 2005). The magistrate judge, district judge and appellate judges all apply the same legal standards to the review of the Commissioner's decision. Dyer, 395 F.3d at 1210; Shinn v. Comm'r of Soc. Sec., 391 F.3d 1276, 1282 (11th Cir. 2004); Phillips v. Barnhart, 357 F.3d 1232, 1240 n.8 (11th Cir. 2004).

The Report and Recommendation finds that sufficient evidence supported the ALJ finding that plaintiff did not have a Listed Impairment and, based upon the testimony of a vocational expert, plaintiff could perform work as a cleaner/housekeeper, cafeteria attendant or marker. After an independent review, the Court agrees with the findings and recommendations in the Report and Recommendation.

Accordingly, it is now


**ORDERED:**

1. The Report and Recommendation (Doc. #24) is accepted and **adopted** by the Court.

2. The Decision of the Commissioner of Social Security is **AFFIRMED**.

3. The Clerk of the Court shall enter judgment accordingly and close the file.

**DONE AND ORDERED** at Fort Myers, Florida, this 17th day of September, 2012.

  
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**JOHN E. STEELE**  
United States District Judge

Copies:  
Hon. Douglas N. Frazier  
U.S. Magistrate Judge

Counsel of Record