

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

SANDI BIRNE,

Plaintiff,

v.

Case No: 2:17-cv-400-FtM-38CM

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

\_\_\_\_\_ /

**OPINION AND ORDER**<sup>1</sup>

This matter comes before the Court on United States Magistrate Judge Carol Mirando's Report and Recommendation filed on July 12, 2018. ([Doc. 18](#)). Judge Mirando recommends that the final decision of the Commissioner of Social Security be reversed and remanded under 42 U.S.C. § 405(g). The parties have not objected to the Report and Recommendation, and the time to do so has elapsed. This matter is ripe for review.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. See [28 U.S.C. § 636\(b\)\(1\)](#); see also [Williams v. Wainwright](#), [681 F.2d 732 \(11th Cir. 1982\)](#). Absent specific objections, there is no requirement that a district judge review factual findings *de novo*, [Garvey v. Vaughn](#), [993 F.2d 776, 779 n.9](#)

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(11th Cir. 1993), and the court may accept, reject, or modify, in whole or in part, the findings and recommendations, 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de novo*, even absent an objection. See *Cooper-Houston v. Southern Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994).


After independently examining the file and on consideration of Judge Miranda's findings and recommendation, the Court accepts and adopts the Report and Recommendation.

Accordingly, it is now

**ORDERED:**

- (1) The Report and Recommendation (Doc. 18) is **ACCEPTED** and **ADOPTED** and the findings incorporated herein.
- (2) The Commissioner's decision is **REVERSED**, and this matter is **REMANDED** for rehearing under sentence four of 42 U.S.C. § 405(g), with instructions to the Administrative Law Judge to:
  - a. Re-evaluate Plaintiff's RFC in light of all of her alleged impairments singularly and in combination;
  - b. Re-evaluate whether there are jobs available in significant numbers that Plaintiff can perform given her RFC, which may require additional testimony from a vocational expert;
  - c. Conduct any further proceedings deemed appropriate.
- (3) The Clerk of Court is **DIRECTED** to enter judgment accordingly, terminate any pending motions, and close this case.

**DONE** and **ORDERED** in Fort Myers, Florida this 30th day of July, 2018.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record