

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

BROOKE ANN LEITMAN,

Plaintiff,

v.

Case No: 2:17-cv-466-FtM-29JBT

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

OPINION AND ORDER

This matter is before the Court on consideration of Magistrate Judge Joel B. Toomey's Report and Recommendation (Doc. #27), filed on May 1, 2018, recommending that the Decision of the Commissioner 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) (citing Lewis v. Callahan, 125 F.3d 1436, 1439 (11th Cir. 1997)). 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) (citing Crawford, 363 F.3d at 1158-59). 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 (citing Martin v. Sullivan, 894 F.2d 1520, 1529 (11th Cir. 1990)). 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 (citing Bloodsworth v. Heckler, 703 F.2d 1233, 1239 (11th Cir. 1983)); Dyer v. Barnhart, 395 F.3d 1206, 1210 (11th Cir. 2005)(citing Phillips v. Barnhart, 357 F.3d 1232, 1240 n.8 (11th Cir. 2004)). The Court reviews the Commissioner's conclusions of law under a *de novo* standard of review. Ingram v. Comm'r of Soc. Sec. Admin., 496 F.3d 1253, 1260 (11th Cir. 2007) (citing Martin, 894 F.2d at 1529).

After an independent review, the Court agrees with the findings and recommendations in the Report and Recommendation. Should remand result in the award of benefits, any petition for attorney fees shall be filed within thirty (30) days from the date of the Commissioner's letter sent to plaintiff's counsel of record at the conclusion of the Agency's past due benefit calculation stating the amount withheld for attorney's fees.

Accordingly, it is now

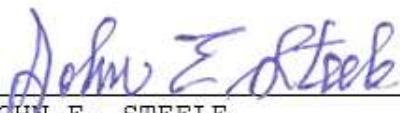
ORDERED:

1. The Report and Recommendation (Doc. #27) is **accepted and adopted** by the Court.
2. The Decision of the Commissioner of Social Security is **reversed and remanded** with instructions to the Commissioner to:

- a. clarify the finding regarding episodes of decompensation and that relates to Listing 12.04;
- b. further explain the reasons for giving the opinions of Dr. Brenda Keefer limited weight, or reconsider the weight given to those opinions;
- c. address the opinion of Dr. Paula Bowman regarding plaintiff's ability to function on a daily basis;
- d. clarify the RFC assessment;
- e. explain any significant variance between the RFC assessment and the opinions of Dr. Bowman and the State agency doctors, or reconsider those opinions;
- f. reconsider plaintiff's RFC if appropriate; and
- g. conduct any further proceeds deemed appropriate.

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

DONE and ORDERED at Fort Myers, Florida, this 21st day of May, 2018.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Hon. Joel B. Toomey
U.S. Magistrate Judge

Counsel of Record