

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

ROBERT PARROTT, JR.,

Plaintiff,

vs.

Case No. 3:10-cv-201-J-34JBT

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

ORDER

THIS CAUSE is before the Court on the Report and Recommendation (Dkt. No. 22; Report), entered by the Honorable Joel B. Toomey, United States Magistrate Judge, on December 22, 2010. In the Report, Magistrate Judge Toomey recommends that the Commissioner of Social Security's (the Commissioner) decision be reversed and the case remanded to the ALJ for further proceedings. See Report at 17. The Commissioner has failed to file objections to the Report, and the time for doing so has now passed.

The Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b). If no specific objections to findings of facts are filed, the district court is not required to conduct a de novo review of those findings. See Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993); see also 28 U.S.C. § 636(b)(1). However, the district court must review legal conclusions de novo. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); United States v. Rice, No. 2:07-mc-8-FtM-29SPC, 2007 WL 1428615, at * 1 (M.D. Fla. May 14, 2007). Upon independent review of the file and for the reasons stated in the Magistrate

Judge's Report, the Court will accept and adopt the legal and factual conclusions recommended by the Magistrate Judge. Accordingly, it is hereby

ORDERED:

1. The Magistrate Judge's Report and Recommendation (Dkt. No. 22) is **ADOPTED** as the opinion of the Court.

2. The Clerk of the Court is directed to enter judgment pursuant to sentence four of 42 U.S.C. § 405(g) **REVERSING** the Commissioner's decision and **REMANDING** this matter to the ALJ with instructions to: (a) explain his reasons for finding Plaintiff's testimony regarding pain not credible; (b) consider Dr. Tran's opinion and explain the weight he gives it, and why; (c) if appropriate, reevaluate Plaintiff's RFC assessment and determine what types of work, if any, Plaintiff can perform; and (d) conduct any further proceedings deemed appropriate.

3. The Clerk of the Court is further directed to close the file.

4. Should this remand result in the award of benefits, pursuant to Rule 54(d)(2)(B), Federal Rules of Civil Procedure, Plaintiff's attorney is granted an extension of time in which to file a petition for authorization of attorney's fees under 42 U.S.C. § 406(b).

Plaintiff's attorney shall have **thirty (30) days** from the date of a notice of award of benefits from the Social Security Administration to file such a petition for attorney's fees.

DONE AND ORDERED at Jacksonville, Florida, this 20th day of January, 2011.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:
Counsel of Record