

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

CARLOS A. JIMENEZ AVILES,

Plaintiff,

v.

Case No. 6:16-cv-127-Orl-37GJK

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**ORDER**

This cause is before the Court on the following:

1. U.S. Magistrate Judge Gregory J. Kelly's Report and Recommendation (Doc. 13), filed September 28, 2016; and
2. The parties' Joint Statement in Response to the Report and Recommendation (Doc. 14), filed September 30, 2016.

In this Social Security appeal, Plaintiff challenges the Commissioner's decision to deny him social security disability benefits. (Doc. 1.) On September 28, 2016, U.S. Magistrate Judge Gregory J. Kelly issued a Report recommending that the Court: (1) reverse the decision of the Commissioner; (2) remand this action for further proceedings; and (3) enter judgment in favor of Plaintiff and against the Commissioner. (Doc. 13 ("**R&R**").) Magistrate Judge Kelly based his recommendation on the failure of the Administrative Law Judge to state with particularity the weight given to Plaintiff's only examining psychologist. (*Id.*)

Contrary to the Commissioner's position, Magistrate Judge Kelly concludes that such error was not harmless because the absence of such information makes it

impossible for the Court to determine whether the Commissioner's final decision is supported by substantial evidence. (*Id.* at 13.) On September 30, 2016, the parties filed a joint notice indicating that neither of them objected to the R&R. (Doc. 14.)


Having independently reviewed the R&R for fairness, and in the absence of any objection, this Court agrees with Magistrate Judge Kelly and adopts the R&R in its entirety. See 28 U.S.C. § 636(b)(1) (suggesting that a de novo review is only required when a party objects to the proposed findings and recommendations). The Court, therefore, finds that the Commissioner's decision is due to be reversed.

Accordingly, it is hereby **ORDERED AND ADJUDGED**:

1. U.S. Magistrate Judge Gregory J. Kelly's Report and Recommendation (Doc. 14) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. The decision of the Commissioner is **REVERSED**.
3. The Clerk is **DIRECTED** to: (1) enter judgment in favor of the Plaintiff, Carlos Jimenez Aviles, and against Defendant, Commissioner of Social Security; and (2) remand this action for proceedings consistent with this Order.

**DONE AND ORDERED** in Chambers in Orlando, Florida, on October 3, 2016.



  
ROY B. DALTON JR.  
United States District Judge

Copies:

Counsel of Record