

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

SARAH BLAKELY,

Plaintiff,

v.

Case No. 6:16-cv-987-Orl-37GJK

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

In this social security appeal, U.S. Magistrate Judge Gregory J. Kelly recommends that the Court reverse the Commissioner's decision and remand the action for further administrative proceedings. (Doc. 15.) Neither party filed objections. For the reasons set forth below, Magistrate Judge Kelly's Report and Recommendation is due to be adopted.

DISCUSSION

Plaintiff filed the instant action on June 7, 2016, seeking review of the Commissioner's decision to deny her social security disability benefits. (Doc. 1.) In a Report and Recommendation issued March 8, 2017, U.S Magistrate Judge Gregory J. Kelly found that the administrative law judge ("ALJ") failed to explain two potential conflicts in the record. (Doc. 15 (R&R).) First, the ALJ determined that Plaintiff's residual functional capacity includes light work—which could require a significant amount of walking—yet he attributed great weight to a medical examiner's opinion that Plaintiff

cannot walk for long periods of time. (*Id.* at 7–8.) Second, the ALJ limited Plaintiff to jobs with simple, repetitive instructions and no tasks requiring math calculations; however, at the administrative hearing, a vocational expert (“VE”) testified that Plaintiff could perform jobs with a reasoning level of two, which require the ability to: (1) apply commonsense understanding to carry out detailed but uninvolved written or oral instructions; and (2) deal with problems involving a few concrete variables in or from standardized situations. (*Id.* at 8–9.) Because the VE did not state whether this testimony was consistent with the job descriptions in the Dictionary of Occupational Titles, Magistrate Judge Kelly found that the VE’s testimony did not provide substantial evidence to support the ALJ’s ultimate determination. (*Id.* at 9.) Based on the foregoing, the R&R recommends that the Court reverse the Commissioner’s decision and remand this action. (*Id.*)

The parties did not object to the R&R, and the time for doing so has now passed. As such, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan. 28, 2016); *see also Marcort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006). Finding none, the Court concludes that the R&R is due to be adopted in its entirety.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. U.S. Magistrate Judge Gregory J. Kelly’s Report and Recommendation (Doc. 15) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Pursuant to 42 U.S.C. § 405(g), the decision of the Commissioner is **REVERSED AND REMANDED**.

3. The Clerk is **DIRECTED** to:
- a. Enter judgment in favor of Plaintiff Sarah Blakely and against Defendant Commissioner of Social Security;
 - b. Terminate all pending motions; and
 - c. Close the file.

DONE AND ORDERED in Chambers in Orlando, Florida, on March 23, 2017.





ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record