

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

GINNY LYNN NORRIS,

Plaintiff,

v.

Case No. 6:16-cv-2040-Orl-37JRK

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

In this social security appeal, Plaintiff challenges the Commission of Social Security's ("**the Commissioner**") decision to deny her disability benefits. (Doc. 1.) On February 5, 2018, U.S. Magistrate Judge James R. Klindt issued a comprehensive Report and Recommendation ("**R&R**") recounting the complicated history of Plaintiff's journey to obtain benefits, which includes multiple benefits applications and review by two different Administrative Law Judges ("**ALJ**"). (Doc. 34.)

In the instant appeal, Plaintiff argues that remand is required because the second ALJ failed to comply with the Appeals Council's explicit instruction to consolidate several of her applications and render a single decision based on all of them ("**Consolidation Directive**"). (See Doc. 19, pp. 16-17.) Ultimately, Magistrate Judge Klindt agrees with Plaintiff that "contrary to the [Consolidation Directive] . . . , the second ALJ inexplicably did not consolidate the later-filed applications, and her Decision was

not issued based on all then-pending claims.”¹ (Doc. 34, p. 17.) So he recommends that the Court reverse the Commissioner’s final decision and remand for further administrative proceedings. (*Id.*) On January 7, 2018, the parties filed a joint response, indicating that they did not object to the R&R. (Doc. 35.)

Absent objections, 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 no clear error, the Court concludes that the R&R is due to be adopted in its entirety. The Court, therefore, finds that the Commissioner’s decision is due to be reversed and the action remanded.

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

1. U.S. Magistrate Judge James R. Klindt’s Report and Recommendation (Doc. 34) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. The Commissioner’s decision is **REVERSED** and **REMANDED** with the following instructions:
 - a. Consolidate the 2009 and 2013 claim files, create a single paper record, and issue a new decision on the consolidated claims, as previously instructed by the Appeals Council in its Consolidation Directive; and

¹ Although Plaintiff advanced two other assignments of error in the instant appeal, Judge Klindt found it unnecessary to address them in light of his finding that the second ALJ did not follow the Consolidation Directive. (Doc. 34, p. 17.)

- b. Take such other action as may be necessary to resolve these claims properly and as soon as practicable.
3. The Clerk is **DIRECTED** to enter judgment in favor of Plaintiff Ginny Lynn Norris and against Defendant Commissioner of Social Security, and to close the file.

DONE AND ORDERED in Chambers in Orlando, Florida, on February 9, 2018.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record