

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

JACKIE B. GAMMON,

Plaintiff,

v.

Case No. 6:17-cv-904-Orl-37GJK

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**ORDER**

In this social security appeal, Plaintiff seeks review of the Commissioner's decision to deny her disability benefits. (Doc. 1.) Plaintiff argues that the administrative law judge ("ALJ") committed reversible error by: (1) applying an improper legal standard to treatment notes of a nurse practitioner who evaluated her; and (2) failing to weigh a checkbox form completed by the nurse practitioner and one of her treating physicians ("Checkbox Form"). (See Doc. 12, pp. 16-28.) Based on these errors, Plaintiff requests that the Court reverse the Commissioner's decision for an award of benefits or, alternatively, impose a time limit of 120 days to complete administrative proceedings on remand. (*Id.* at 29-30.) In support, she argues that she has suffered an injustice because this is her third appeal and her applications have been pending since September 2009. (*Id.*)

On referral, U.S. Magistrate Judge Gregory J. Kelly recommends that the Court reverse and remand this action for further administrative proceedings. (Doc. 13 ("R&R").) In his R&R, Magistrate Judge Kelly agrees with Plaintiff's second assignment

of error, concluding that the Checkbox Form was a medical opinion, which required the ALJ to state with particularity the weight given to it and her reasoning. (*Id.* at 8.) With respect to Plaintiff's request for an award of benefits or imposition of a time limit, Magistrate Judge Kelly finds both requests inappropriate despite the protracted nature of Plaintiff's pending applications. (*Id.* at 11-12.)


No party objected to the R&R, and the time for doing so has now passed. 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.

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

1. U.S. Magistrate Judge Gregory J. Kelly's Report and Recommendation (Doc. 13) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. The Commissioner's decision is **REVERSED** and **REMANDED** for further administrative proceedings.
3. The Clerk is **DIRECTED** to enter judgement in favor of Plaintiff Jackie B. Gammon and against Defendant Commissioner of Social Security, and to close the file.

**DONE AND ORDERED** in Chambers in Orlando, Florida, on February 26, 2018.



  
ROY B. DALTON JR.  
United States District Judge

Copies to:  
Counsel of Record