

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DEBRA GAY,

Plaintiff,

v.

CASE NO. 8:09-CV-1957-T-17TGW

MICHAEL J. ASTRUE,
Commissioner of Social
Security,

Defendant.

_____ /

ORDER

This cause is before the Court on:

Dkt. 28 Report and Recommendation

Plaintiff Debra Gay requests judicial review of the denial of her claims for Social Security disability benefits and supplemental security income benefits. The assigned Magistrate Judge has entered a Report and Recommendation in which it is recommended that the decision be reversed, and this matter remanded for further consideration.

The assigned Magistrate Judge concluded that the Administrative Law Judge erred in finding that Plaintiff Gay had a severe impairment of bilateral carpal tunnel syndrome while not finding any manipulative limitations. A "non-severe impairment" is one that "does not significantly limit [a claimant's physical or mental ability to do basic work activities." 20 C.F. R. 404.1521(a), 416.921(a). The Administrative Law Judge's finding that Plaintiff Gay had a severe impairment of carpal tunnel

Case No. 8:09-CV-1957-T-17TGW

syndrome means that Plaintiff Gay had a hand condition that significantly affected Plaintiff's ability to perform basic work activities, such as handling. 20 C.F. R. 404.1521(b), 416.921(b).

It is also noted that the Administrative Law Judge stated that great weight was given to the opinion of Plaintiff's treating physician, Dr. Schwarz, "who stated that claimant's numbness in her hands contributed to her disability," but the Administrative Law Judge did not actually give great weight to that opinion, in that no functional limitation related to Plaintiff's hands was included in the decision denying benefits. It is also noted that the Administrative Law Judge's assessment of the opinion of Dr. Pizzo is unclear. The assigned Magistrate Judge found that the Administrative Law Judge could not reasonably conclude that Plaintiff Gay had a severe impairment of carpal tunnel syndrome, and also fail to find any limitations in Plaintiff's handling ability, and on remand the Administrative Law Judge must address this inconsistency.

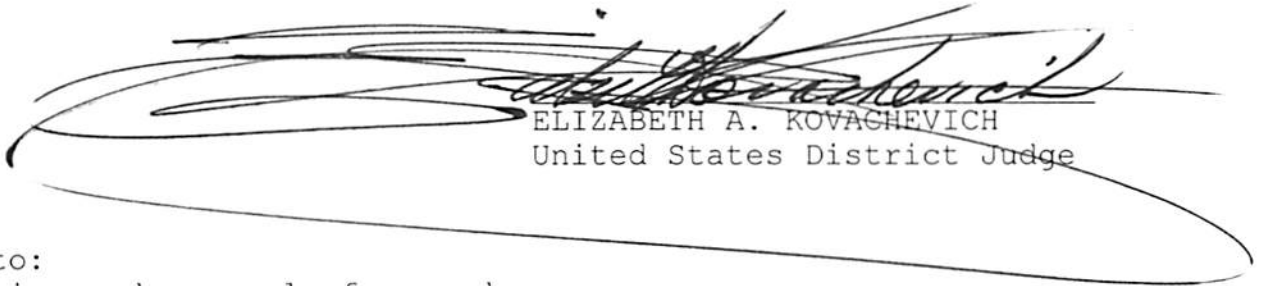
The Court has independently considered the pleadings and the administrative record. No objections to the Report and Recommendation have been filed. After consideration, the Court adopts the Report and Recommendation, which is incorporated herein by reference. Accordingly, it is

ORDERED that the Report and Recommendation, which is incorporated by reference, is **adopted**. The decision of the Commissioner of Social Security is **reversed**, and this case is **remanded** for further proceedings to resolve the above issues as to any limitations Plaintiff Gay may have based on carpal tunnel

Case No. 8:09-CV-1957-T-17TGW

syndrome. The Clerk of Court shall enter a final judgment in favor of Plaintiff Debra Gay and against Michael J. Astrue, Commissioner of Social Security, and close this case.

DONE and ORDERED in Chambers, in Tampa, Florida on this 15th day of November, 2010.



ELIZABETH A. KOVACHEVICH
United States District Judge

Copies to:
All parties and counsel of record