

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SAMUELE JUN GORGOGLIONE,

Plaintiff,

v.

Case No. 8:13-cv-953-T-33TBS

Commissioner of Social Security
Administration,

Defendant.

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ORDER

This matter is before the Court on consideration of the Report and Recommendation of United States Magistrate Judge Thomas B. Smith (Doc. # 26), filed on March 3, 2014, recommending that:

- (1) The Commissioner's Unopposed Motion for Entry of Judgment with Remand (Doc. # 16)¹ be granted;
- (2) This case be Reversed and Remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g);
- (3) The Clerk of the Court be directed to enter judgment accordingly, terminate any pending motions, and close the file; [and]
- (4) Plaintiff be instructed that the deadline to file a motion for attorney's fees pursuant to

¹ The Court notes that Magistrate Judge Smith inadvertently cited the Commissioner's Unopposed Motion for Entry of Judgment with Remand as (Doc. # 16) instead of (Doc. # 25).

42 U.S.C. § 406(b) shall be thirty (30) days after Plaintiff receives notice from the Social Security Administration of the amount of any past due benefits awarded. Upon receipt of the notice, counsel for Plaintiff shall promptly e-mail [John F. Rudy, III] and the OGC attorney assigned to the case to advise them that the notice has been received.

(Id.).

As of this date, no objection to the Report and Recommendation has been filed, and the time to do so has now passed. After careful consideration, the Court adopts the Report and Recommendation of the Magistrate Judge.

Discussion

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983).

In the absence of specific objections, there is no requirement that a district judge review factual findings de novo, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject, or modify, in whole or in part, the findings and recommendations. 28 U.S.C. §

636(b)(1)(C). The district judge reviews legal conclusions de novo, even in the absence of an objection. See Cooper-Hous. v. S. Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994).

After conducting a careful and complete review of the findings, conclusions, and recommendations, and giving de novo review to matters of law, the Court accepts the factual findings and legal conclusions of the Magistrate Judge, and adopts the recommendation of the Magistrate Judge.


Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

- (1) The Report and Recommendation of Thomas B. Smith, United States Magistrate Judge (Doc. # 26) is **ADOPTED**.
- (2) The Commissioner's Unopposed Motion for Entry of Judgment with Remand (Doc. # 25) is **GRANTED**.
- (3) This case is **REVERSED** and **REMANDED** to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g).
- (4) The Clerk is directed to enter judgment accordingly, terminate any pending motions, and **CLOSE THIS CASE**.
- (5) The final judgment shall state that the deadline to file a motion for attorney's fees pursuant to 42 U.S.C. §

406(b) shall be thirty (30) days after Plaintiff receives notice from the Social Security Administration of the amount of any past due benefits awarded. Upon receipt of the notice, counsel for Plaintiff shall promptly e-mail John F. Rudy, III and the OGC attorney assigned to the case to advise them that the notice has been received.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 24th day of March, 2014.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies: All Counsel of Record