

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CORRETTA DEHAVELIN GRAIER,

Plaintiff,

v.

Case No: 8:14-cv-2273-MSS-AEP

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

THIS CAUSE comes before the Court for consideration of the Complaint (Dkt. 1) filed by Plaintiff, Corretta Dehavelin Graier, the Response in opposition thereto (Dkt. 13) filed by Defendant, Commissioner of Social Security, and the Joint Memorandum. (Dkt. 16) On August 3, 2015, United States Magistrate Judge Anthony E. Porcelli issued a Report and Recommendation, recommending that the Commissioner's decision be reversed and the case be remanded for further proceedings. (Dkt. 17) Defendant has not filed an objection to the Magistrate Judge's R&R, and the time for doing so has passed.

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, 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). A district judge "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). This requires

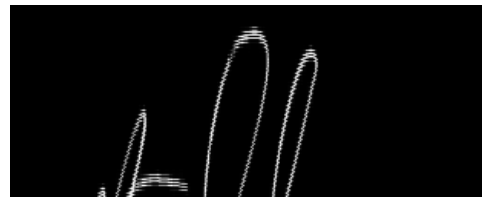
that the district judge “give fresh consideration to those issues to which specific objection has been made by a party.” Jeffrey S. v. State Bd. of Educ., 896 F.2d 507, 512 (11th Cir.1990) (quoting H.R. 1609, 94th Cong. § 2 (1976)). In the absence of specific objections, there is no requirement that 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-Houston v. Southern Ry., 37 F.3d 603, 604 (11th Cir. 1994).

Upon consideration of the Report and Recommendation, in conjunction with an independent examination of the file, the Court is of the opinion that the Report and Recommendation should be adopted, confirmed, and approved in all respects. Accordingly, it is **ORDERED** that:

1. The Report and Recommendation (Dkt.17) is **CONFIRMED** and **ADOPTED** as part of this Order.
2. The decision of the Commissioner of Social Security is hereby **REVERSED** **and the case is REMANDED** with the following instructions:
 - a. The ALJ shall revisit his conclusion as to whether the evidence supports the contention that Plaintiff cannot work an eight-hour workday or 40-hour workweek.
 - b. The ALJ shall reconsider Dr. Godoy’s opinions and explain the weight assigned to such opinions.
 - c. The ALJ shall reconsider Dr. Perez’s opinions and explain the weight assigned to such opinions.

- d. The ALJ shall reconsider Plaintiff's residual functional capacity.
 - e. The ALJ shall reconsider his credibility determinations of Plaintiff's testimony and subjective complaints regarding her impairments.
3. The Clerk is **DIRECTED** to enter judgment in favor of Plaintiff and **CLOSE** this case. The Court retains jurisdiction to rule on any motion for attorneys' fees.

DONE and **ORDERED** in Tampa, Florida, this 1st day of September, 2015.

A black rectangular box containing a white, handwritten signature. The signature is cursive and appears to be the name of the court clerk or judge.

Copies furnished to:
Counsel of Record
Any Unrepresented Person