

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

DAVID R. MCKENZIE,

Plaintiff,

vs.

Case No. 8:16-cv-1972-T-27AEP

NANCY A. BERRYHILL, Acting  
Commissioner of Social Security,

Defendant.

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**ORDER**

**BEFORE THE COURT** is the Report and Recommendation (Dkt. 15) from the Magistrate Judge recommending that the decision of the Commissioner be reversed and remanded. Neither party filed objections and the time for doing so has expired.

A district court may accept, reject or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1). In the absence of specific objections, there is no requirement that factual findings be reviewed *de novo*, and the court may accept, reject or modify, in whole or in part, the findings and recommendations. § 636(b)(1)(C); *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993). Legal conclusions are reviewed *de novo*, even in the absence of an objection. *See LeCroy v. McNeil*, 397 F. App'x 554, 556 (11th Cir. 2010) (citing *United States v. Warren*, 687 F.2d 347, 348 (11th Cir. 1982)); *Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (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,

1. The Report and Recommendation (Dkt. 15) is **APPROVED** and **ADOPTED** for all purposes, including for appellate review.

2. The decision of the Commissioner is **REVERSED and REMANDED** for further proceedings consistent with the Report and Recommendation pursuant to 42 U.S.C. § 405(g).

3. The Clerk shall enter final judgment in favor of Plaintiff and against the Commissioner.

4. The Clerk is directed to **CLOSE** the file.

**DONE AND ORDERED** on this 22<sup>nd</sup> day of August, 2017.

  
**JAMES D. WHITTEMORE**  
**United States District Judge**

Copies to:  
Counsel of record