

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MARLO HOAGLAN,

Plaintiff,

v.

Case No. 8:16-cv-2311-T-33CM

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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ORDER

This matter is before the Court on consideration of United States Magistrate Judge Carol Mirando's Report and Recommendation (Doc. # 22), filed on August 7, 2017, recommending that the decision of the Commissioner of Social Security denying Social Security benefits be affirmed. As of this date, neither party has filed an objection to the report and recommendation, and the time for the parties to file such objections has elapsed. As discussed below, the Court adopts the Report and Recommendation.

Discussion

The Magistrate Judge issued a Scheduling Order on December 20, 2016, directing Plaintiff to file a memorandum of law in support of the allegations of the Complaint within 60 days and further directing the Commissioner to file a memorandum of law within 60 days of the filing of Plaintiff's

memorandum of law. (Doc. # 15). The Scheduling Order did not contemplate the filing of separate Motions for Summary Judgment. Nevertheless, on February 20, 2017, Plaintiff filed a Motion for Summary Judgment (Doc. # 16) and separate Brief in Support thereof. (Doc. # 17). Therein, Plaintiff identified two specific issues that she contends warrant reversal of the ALJ's decision: (1) whether the ALJ erred in relying on the testimony of a Vocational Expert that there are significant jobs in the national economy that Plaintiff can perform; and (2) whether the ALJ complied with Social Security Ruling 00-4p. On February 28, 2017, the Commissioner filed a Memorandum in Support of the Commissioner's Decision. (Doc. # 18).

The Magistrate Judge carefully considered the arguments presented and issued a detailed Report and Recommendation on August 7, 2017, recommending that this Court affirm the Commissioner's decision to deny benefits to Plaintiff. (Doc. # 22). Regardless of the procedurally defective manner in which Plaintiff raised her arguments, the Magistrate Judge squarely and completely addressed each issue Plaintiff raised. As noted, Plaintiff was given the opportunity to file an Objection to the Report and Recommendation, but she elected not to do so.

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-Houston v. Southern 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) (Table).

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 the Report and Recommendation of the Magistrate Judge.

Accordingly, it is now

ORDERED, ADJUDGED, and DECREED:

- (1) The Report and Recommendation (Doc. # 22) is **ACCEPTED** and **ADOPTED**.
- (2) The decision of the Commissioner of Social Security denying benefits is **AFFIRMED**.
- (3) Plaintiff's procedurally defective Motion for Summary Judgment (Doc. # 16) is **DENIED AS MOOT**.
- (4) The Clerk is directed to enter a Judgment in favor of the Commissioner reflecting that the Commissioner's decision denying benefits is affirmed. Thereafter, the Clerk is directed to **CLOSE THE CASE**.

DONE and **ORDERED** in Chambers, in Tampa, Florida, this 22nd day of August, 2017.

A rectangular area containing a handwritten signature in blue ink on a light orange background. The signature is partially obscured and difficult to read, but appears to be a name followed by a date or initials.