

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

JASPER MILLER,

Plaintiff,

v.

Case No. 8:23-cv-02286-VMC-AEP

LELAND DUDEK,
Acting Commissioner of
Social Security,¹

Defendant.

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ORDER

This matter comes before the Court upon consideration of United States Magistrate Judge Anthony E. Porcelli's Report and Recommendation (Doc. # 17), entered on February 10, 2025, recommending that the decision of the Commissioner of Social Security denying benefits be affirmed. On February 21, 2025, Plaintiff filed Objections to the United States Magistrate Judge's Report and Recommendation. (Doc. # 18). The Commissioner did not file a response to the Objections.

Upon review, the Court accepts and adopts the Report and Recommendation, overrules the Objections, and affirms the Commissioner's decision.

¹ Leland Dudek is now the Acting Commissioner of Social Security.

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). 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 recommendation. 28 U.S.C. § 636(b)(1)(C). If a party files a timely and specific objection to a finding of fact by the magistrate judge, the district court must conduct a *de novo* review with respect to that factual issue. Stokes v. Singletary, 952 F.2d 1567, 1576 (11th Cir. 1992). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See Cooper-Houston 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).

Plaintiff raises three objections to the Report and Recommendation. (Doc. # 18). First, Plaintiff contends that Judge Porcelli's Report and Recommendation conflicts with the

Administrative Law Judge's ("ALJ") requirement to discuss mild mental limitations in the residual functional capacity ("RFC") assessment. (Id. at 1-2). Second, Plaintiff argues that the Report and Recommendation conflicts with the ALJ's obligation to explain the weight given to State agency medical consultants. (Id. at 2-3). Third, that the Report and Recommendation misstates the record regarding Plaintiff's arguments about the vocational expert's ("VE") testimony. (Id. at 3-5).

The Court is unpersuaded by Plaintiff's arguments, and instead agrees with Judge Porcelli's analysis. First, "the ALJ's determination of Plaintiff's mental RFC is supported by substantial evidence," as "the ALJ took both Plaintiff's severe and non-severe impairments into account when formulating Plaintiff's RFC." (Doc. # 17 at 11-12). Second, "[t]he ALJ properly considered the opinion evidence of the State agency consultants and formulated an RFC that was supported by substantial evidence." (Id. at 9). Third, the Report and Recommendation explains that Plaintiff's argument regarding the VE's testimony fails for several reasons, including that "Plaintiff never challenged the VE's qualifications at the administrative hearing, did not move to strike the opinions after learning that the VE was relying on

JobBrowser Pro, and failed to offer the ALJ any evidence to rebut the VE's testimony." (Id. at 16).


Upon due consideration of the record, including Judge Porcelli's Report and Recommendation, as well as the Objections thereto, the Court overrules the Objections and adopts the Report and Recommendation. The Court agrees with Judge Porcelli's well-reasoned findings of fact and conclusions of law. The Report and Recommendation thoughtfully addresses the issues presented, and the Objections do not provide a basis for rejecting the Report and Recommendation.

Accordingly, it is now

ORDERED, ADJUDGED, and DECREED:

- (1) The Report and Recommendation (Doc. # 17) is **ACCEPTED** and **ADOPTED**.
- (2) The decision of the Commissioner of Social Security is **AFFIRMED**.
- (3) The Clerk is directed to enter judgment accordingly and, thereafter, **CLOSE** this case.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 10th day of March, 2025.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE