

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION

DEBRA BAKER,

Plaintiff,

v.

CASE NO. 1:09-cv-00251-MP -GRJ

MICHAEL J ASTRUE,

Defendant.

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**ORDER**

This matter is before the Court on Doc. 25, Report and Recommendation of the Magistrate Judge, which recommends that the decision of the Commissioner of Social Security, denying continued benefits, be affirmed. Petitioner timely objected to the Magistrate Judge’s Report and Recommendation. This Court reviews objected-to material *de novo*.

Plaintiff appeals from a final decision of the Commissioner of Social Security terminating her disability insurance benefits due to medical improvement. Plaintiff contends that the Administrative Law Judge (ALJ) erred in not finding Plaintiff fully credible. Specifically, Plaintiff argues that ALJ Haack’s prior determination that Plaintiff was fully credible is *res judicata* to ALJ Stacy’s subsequent determination that Plaintiff was not credible.

Administrative *res judicata* applies in a Social Security case when the Commissioner “has made a previous final decision ‘about a claimant’s rights on the same facts and on the same issue or issues.’” *Moreno v. Astrue*, 366 Fed. Appx. 23, 27 (11th Cir. 2010) (quoting 20 C.F.R. § 404.957(c)(1)). In the instant case, ALJ Stacy was tasked with determining whether the Plaintiff’s disability had ended almost six years after ALJ Haack initially determined that the

Plaintiff was disabled. ALJ Stacy based his findings on a different set of facts – more than six years of medical evidence – than ALJ Haack had to consider. The issue that ALJ Stacy considered – whether Plaintiff was still disabled in 2006 – was also different than the issue ALJ Haack considered in 2001. As such, ALJ Haack’s prior credibility determination is not *res judicata* to ALJ Stacy’s credibility determination. Furthermore, the medical evidence in the record does not support the Plaintiff’s claims regarding her continued disability. The Court agrees with the Magistrate Judge’s conclusion that “ALJ Stacy performed the required analysis in determining that Plaintiff had experienced a medical improvement in the severity of her impairments and this conclusion was supported by substantial evidence.” Doc. 25 at 25.

Accordingly, it is hereby

**ORDERED AND ADJUDGED:**

1. The Report and Recommendation of the Magistrate Judge, Doc. 25, is ADOPTED and incorporated herein.
2. The decision of the Commissioner, that the Plaintiff is no longer entitled to disability benefits because her disability has ended, is AFFIRMED.

**DONE AND ORDERED** this 22nd day of March, 2011

*s/Maurice M. Paul*  
Maurice M. Paul, Senior District Judge