

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

FREEMAN W. STONE,

Plaintiff,

v.

CASE NO. 1:11cv13-MP-GRJ

MICHAEL J. ASTRUE,

Defendant.

ORDER

This cause comes on for consideration upon the magistrate judge's Report and Recommendation dated January 19, 2012. (Doc. 18). The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). I have made a *de novo* determination of any timely filed objections.

In his objection to the Report and Recommendation, the plaintiff argues that it is inappropriate for an administrative law judge (ALJ) to rely on the Medical Vocational Guidelines or Grids where, like the plaintiff, a claimant has non-exertional limitations brought about by their mental health impairment. However, as the magistrate judge noted, “[b]efore reaching the conclusion that the Grids will not be applied because the claimant alleges non-exertional limitations, those non-exertional limitations must be severe enough to restrict a full range of gainful employment at the designated level.” *Kirk v. Secretary of HHS*, 667 F.2d 635, 647 (6th Cir. 1981). Thus, once the ALJ determined, based upon substantial evidence, that the plaintiff's mental impairment did not significantly limit his ability to perform basic work activities, it was appropriate for the ALJ to use the Grids to determine the availability of jobs that the plaintiff could perform with his exertional limitations.

Having considered the Report and Recommendation, and the objections thereto timely filed, I have determined that the Report and Recommendation should be adopted.

Accordingly, it is now ORDERED as follows:

1. The magistrate judge's Report and Recommendation is adopted and incorporated by reference in this order.

2. The decision of the Commissioner of Social Security, denying plaintiff's applications for disability insurance and supplemental security income benefits, is AFFIRMED.

DONE and ORDERED this 24th day of February, 2012.

s/ *M. Casey Rodgers*
M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE