

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

PAULETTE BARRY,

Plaintiff,

v.

CASE NO. 1:13-cv-00089-MP-GRJ

CAROLYN W. COLVIN,

Defendant.

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**ORDER**

This cause comes on for consideration upon the Magistrate Judge's Report and Recommendation dated May 28, 2014. (Doc. 25). 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). Plaintiff has filed objections. (Doc. 26). I have made a de novo review based on those objections.

Having considered the Report and Recommendation, and the timely filed objections, I have determined that the Report and Recommendation should be adopted. First, the ALJ properly assessed Plaintiff's obesity. Second, Plaintiff has not shown good cause under sentence six of 42 U.S.C. § 405(g) for failing to incorporate evidence of bias into the agency record. Such claims of bias should be addressed in the first instance at the agency level. *Hummel v. Heckler*, 736 F.2d 91, 94 (3d Cir. 1984). When evidence of bias is presented for the first time to the district court, a

remand under sentence six may be appropriate. *Id.* at 95. A sentence six remand, however, is conditioned upon Plaintiff showing “good cause for failure to incorporate such evidence into the record in a prior [agency] proceeding . . . .” 42 U.S.C. § 405(g). Plaintiff has not shown good cause. Accordingly, it is hereby

**ORDERED AND ADJUDGED:**

1. The magistrate judge’s Report and Recommendation (Doc. 25) is adopted and incorporated by reference in this order.
2. The decision of the Commissioner is **AFFIRMED**.

**DONE AND ORDERED** this 1st day of July, 2014

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