

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-21906-CIV-GAYLES/TURNOFF

PAULETTE MAUREEN ROGERS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant. /

ORDER AFFIRMING AND ADOPTING REPORT OF MAGISTRATE JUDGE

THIS CAUSE comes before the Court on Magistrate Judge William C. Turnoff's Report and Recommendation ("Report") [ECF No. 28]. Plaintiff appeals the final decision of the Commissioner of Social Security denying Plaintiff Social Security disability benefits. [ECF No. 1]. Plaintiff argues that the Administrative Law Judge (ALJ) erroneously determined that she is not disabled within the meaning of the Social Security Act. [*See id.*]. The matter was referred to Judge Turnoff, pursuant to 28 U.S.C. § 636(b)(1)(B), for a ruling on all pretrial, non-dispositive matters, and for a Report and Recommendation on any dispositive matters. [ECF No. 4]. On January 11, 2017, Plaintiff filed a Motion for Summary Judgment [ECF No. 24]. Defendant filed a competing Motion for Summary Judgment [ECF No. 25] in February 2017. Judge Turnoff concluded that the ALJ's decision did not offer sufficient explanation on how the ALJ weighed competing medical opinion evidence for the Court to evaluate whether the ALJ applied the correct legal analysis. [ECF No. 28, at 16]. Thus, Judge Turnoff recommends that the Court grant Plaintiff's Motion, deny Defendant's Motion, and remand to the ALJ for further proceedings. [*Id.* at 20]. Neither party has timely objected to the Report.


A district court may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1). Those portions of the report and recommendation to which objection is made are accorded *de novo* review if those objections "pinpoint the specific findings that the party disagrees with." *United States v. Schultz*, 565 F.3d 1353, 1360 (11th Cir. 2009); *see also* Fed. R. Civ. P. 72(b)(3). Any portions of the report and recommendation to which *no* specific objection is made are reviewed only for clear error. *Liberty Am. Ins. Grp., Inc. v. WestPoint Underwriters, L.L.C.*, 199 F. Supp. 2d 1271, 1276 (M.D. Fla. 2001); *accord Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006).

This Court finds no clear error with Judge Turnoff's well-reasoned analysis and agrees that Plaintiff's Motion should be granted, Defendant's Motion should be denied, and the matter should be remanded to the ALJ for additional proceedings.

Accordingly, after careful consideration, it is **ORDERED AND ADJUDGED** as follows:

- (1) Judge Turnoff's Report and Recommendation [ECF No. 28] is **AFFIRMED AND ADOPTED** and incorporated into this Order by reference;
- (2) Plaintiff's Motion for Summary Judgment [ECF No. 24] is **GRANTED**;
- (3) Defendant's Motion for Summary Judgment [ECF No. 25] is **DENIED**;
- (4) the matter is **REMANDED** for proceedings consistent with this Order and the Report; and
- (5) this case is **CLOSED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 21st day of November, 2017.


DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE