

United States District Court
for the
Southern District of Florida

Yaimara C. Albelo, Plaintiff,)	
)	
v.)	
)	Civil Action No. 23-21592-Civ-Scola
Kilolo Kijakazi, Acting)	
Commissioner of Social Security,)	
Defendant.)	

Order Adopting Magistrate Judge’s Report and Recommendations

This matter comes before the Court on the parties’ motions for summary judgment. (ECF Nos. 13, 15, 17.) Plaintiff Yaimara Albelo (“Albelo”) challenged the denial of her social security benefits, alleging disability based on schizoaffective disorder and back pain. Albelo and Defendant Kilolo Kijakazi¹, Commissioner of the Social Security Administration (“Commissioner”), filed cross-motions for summary judgment. (*Id.*) The case was referred to United States Magistrate Judge Marty Fulgueira Elfenbein for a ruling on all pre-trial, non-dispositive matters and for a report and recommendation on any dispositive matters. (ECF Nos. 12, 19.) On August 13, 2024, Judge Elfenbein issued a report, recommending the Court deny Plaintiff’s motion for summary judgment, grant the Defendant’s motion for summary judgment, and affirm the decision of the Administrative Law Judge (“ALJ”). (R&R, ECF No. 20.) The R&R gave the parties fourteen days to file written objections, but neither party did so.

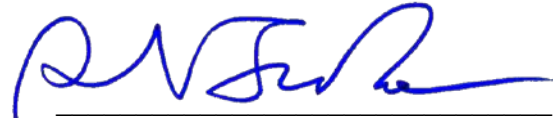
A district court judge must conduct a de novo review of only “those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636. Where no objections are made, a report may be adopted in full without conducting a de novo review, provided no plain error exists. *See id.*; *Menendez v. Naples Cmty. Hosp. Inc.*, No. 2:20-CV-898-SPC-MRM, 2021 U.S. Dist. LEXIS 215317, 2021 WL 5178496, at *1 (M.D. Fla. Nov. 8, 2021) (collecting cases).

The Court has considered Judge Elfenbein’s report, the record, and the relevant legal authorities. The Court finds Judge Elfenbein’s report and recommendations cogent and compelling. The Court **affirms and adopts** Judge

¹ Plaintiff’s suit was filed against Kilolo Kijakazi, the Acting Commissioner at the time of filing. Martin J. O’Malley was sworn in as Commissioner of the Social Security Administration on December 20, 2023. Pursuant to Federal Rule of Civil Procedure 25(d), Martin J. O’Malley should be substituted for Kilolo Kijakazi as the suit’s Defendant.

Elfenbein's report and recommendations and affirms the decision of the Administrative Law Judge ("ALJ"). (**ECF No. 20.**) Accordingly, the Court **denies** Plaintiff's motion for summary judgment (**ECF No. 13**), and the Court **grants** Defendant's motion for summary judgment. (**ECF Nos. 15, 17.**) Finally, the Court directs the Clerk to **close** this case. All pending motions are **denied as moot**.

Done and ordered in Miami, Florida, on September 25, 2024.

A handwritten signature in blue ink, appearing to read "R. N. Scola, Jr.", written over a horizontal line.

Robert N. Scola, Jr.
United States District Judge