

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 2:21-cv-14239-KMM

FONTE BARTEE,

Plaintiff,

v.

KILOLO KIJAKAZI,
Acting Commissioner of the Social
Security Administration,¹

Defendant.

ORDER ON REPORT AND RECOMMENDATION

THIS CAUSE came before the Court upon the Parties' cross motions for summary judgment. Plaintiff Fonte Bartee ("Plaintiff") filed the Complaint seeking review of a final decision of the Commissioner of Social Security ("Defendant"). (ECF No. 1). On February 1, 2022, Plaintiff filed her Motion for Summary Judgment. ("Pl.'s Mot.") (ECF No. 22). On March 8, 2022, Defendant filed her Motion for Summary Judgment. ("Def.'s Mot.") (ECF No. 23). The Court referred the matter to the Honorable Shaniek M. Maynard, United States Magistrate Judge, who issued a Report and Recommendation recommending that Plaintiff's Motion be DENIED, and Defendant's Motion be GRANTED. ("R&R") (ECF No. 25). The Parties did not file

¹ Plaintiff initiated this suit against then-Acting Commissioner Andrew Saul. Kijakazi replaced Andrew Saul as the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Federal Rule of Civil Procedure 25(d), "[a]n action does not abate when a public officer who is a party in an official capacity . . . otherwise ceases to hold office while the action is pending. The officer's successor is automatically substituted as a party. Later proceedings should be in the substituted party's name, but any misnomer not affecting the parties' substantial rights must be disregarded."

objections to the R&R and the time to do so has passed. The matter is now ripe for review.² As set forth below, the Court ADOPTS the R&R.

The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

As set forth in the R&R, Magistrate Judge Maynard makes the following findings: (1) the Administrative Law Judge (“ALJ”) properly articulated and applied the pain standard and (2) the ALJ applied the correct legal standards in evaluating the medical opinions and the ALJ’s determinations were supported by substantial evidence. This Court agrees.

Accordingly, UPON CONSIDERATION of the R&R, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that the R&R (ECF No. 25) is ADOPTED, Plaintiff’s Motion (ECF No. 22) is DENIED, and Defendant’s Motion (ECF No. 23) is GRANTED. The Clerk of Court is INSTRUCTED to CLOSE this case. All pending motions, if any, are DENIED AS MOOT.

DONE AND ORDERED in Chambers at Miami, Florida, this 15th day of September, 2022.



K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

c: All counsel of record

² The Court assumes familiarity with the facts and procedural history, which are set forth in the R&R. See R&R at 1–6.