

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-80950-CIV-COHN

FRANCES BRYAN WILSON,

Plaintiff,

Magistrate Judge Seltzer

vs.

MICHAEL J. ASTRUE, Commissioner
of Social Security,Defendant,

**FINAL ORDER GRANTING SUMMARY JUDGMENT TO DEFENDANT and
ORDER APPROVING REPORT AND RECOMMENDATION**

THIS CAUSE is before the Court upon the Report and Recommendation [DE 15] of United States Magistrate Judge Barry S. Seltzer, entered on February 1, 2010, Plaintiff's Motion for Summary Judgment [DE 11] and Defendant's Cross-Motion for Summary Judgment [DE 14]. The Court notes that the Plaintiff has not filed any objections to the Report and Recommendation, and that the time for filing such objections passed on February 16, 2010.

As no timely objections were filed, the Magistrate Judge's factual findings in the Report and Recommendation are hereby adopted and deemed incorporated into this opinion. Loconte v. Dugger, 847 F.2d 745 (11th Cir. 1988), *cert. denied* 488 U.S. 958 (1988); RTC v. Hallmark Builders, Inc., 996 F.2d 1144, 1149 (11th Cir. 1993). As to the legal conclusions of the Magistrate Judge, the Court has reviewed the arguments of the parties, and is otherwise fully advised in the premises.


This Court agrees with the reasoning and analysis of the Magistrate Judge that the Plaintiff's Motion for Summary Judgment be denied and the Defendant's Cross-Motion should be granted. The Court agrees with the Magistrate Judge that the

Administrative Law Judge in this Social Security disability case relied on substantial evidence in the record to support his conclusions that Plaintiff's past work as a telemarketer does not require the performance of work-related activity precluded by her residual functional capacity. The ALJ and Magistrate Judge applied the correct legal tests, and no error was committed.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The Magistrate Judge's Report and Recommendation [DE 15] is hereby **ADOPTED**;
2. Plaintiff's Motion for Summary Judgment [DE 11] is hereby **DENIED**;
3. Defendant's Cross-Motion for Summary Judgment [DE 14] is hereby **GRANTED**;
4. The decision of the Commissioner in this case is hereby **AFFIRMED**, and the Complaint in this case is hereby dismissed on the merits;
5. All other pending motions are denied as moot;
6. The Clerk shall close this case.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 25th day of February, 2010.


JAMES I. COHN
United States District Judge

copies to:
Adam Neidenberg, Esq.
David Mellinger, AUSA