

FILED  
 U.S. DISTRICT COURT  
 SAVANNAH DIV.  
 IN THE UNITED STATES DISTRICT COURT FOR  
 THE SOUTHERN DISTRICT OF GEORGIA  
 SAVANNAH DIVISION

TAYLOR JEANE FOLEY,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting  
 Commissioner of Social  
 Security,

Defendant.

CLERK

SO. DIST. OF GA.

CASE NO. CV412-016

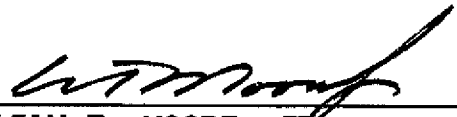
O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 12), to which objections have been filed (Doc. 14). After a careful de novo review of the record, the Court finds Plaintiff's objections to be without merit. Accordingly, the report and recommendation is **ADOPTED** as the Court's opinion in this case and Plaintiff's appeal is **DISMISSED**. The Clerk of Court is **DIRECTED** to close this case.

In her objections, Plaintiff objects to the Magistrate Judge's finding that she does not meet Listing 112.05 and Listing 12.05, and the resulting decision that she retains sufficient residual functional capacity so as to not be disabled. (Doc. 14 at 1-2.) The ALJ determined that, while Plaintiff did have a subaverage IQ score, several

other factors mitigated her listing as mentally retarded. (Doc. 12 at 8.) Substantial evidence shows that claimant had no problem sustaining attention during sports, or focusing to finish assigned tasks, or completing class assignments. (Id. at 8.) Dr. Nagelberg, who evaluated Plaintiff, diagnosed Plaintiff to have borderline intellectual functioning, not mental retardation. (Id. at 9.) The Court cannot substitute its judgment for the ALJ's where that decision is supported by substantial evidence, as is the case here. See Barnes v. Sullivan, 932 F.2d 1356, 1357-58 (11th Cir. 1991). Plaintiff has failed to satisfy her burden of proving the disability, rendering the denial of benefits by the ALJ proper.

SO ORDERED this 15<sup>th</sup> day of March 2013.

  
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WILLIAM T. MOORE, JR.  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA