IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA WAYCROSS DIVISION

KENNETH WARREN COOPER,

Plaintiff,

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MICHAEL J. ASTRUE, Commissioner of Social Security,

Defendant.

CIVIL ACTION NO.: CV508-059

<u>ORDER</u>

After an independent and de novo review, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Plaintiff contends that the Magistrate Judge found that the Administrative Law Judge ("ALJ") acted properly by giving weight to the opinions of examining physicians, but rejecting portions of their opinions without attempting to clarify these perceived inconsistencies. Plaintiff asserts that there is no question that the ALJ relied upon the report of a non-examining psychologist rather than that of the examining physician, even though these reports are explicitly contradictory. Plaintiff alleges that there is only one source of record who suspected Plaintiff of malingering, and that source was not provided with any of Plaintiff's medical records. Plaintiff alleges that it is unclear whether this source considered the malingering when opining about Plaintiff's limitations. Plaintiff asserts there is no question the ALJ ignored the Veterans' Administration's ("VA") disability rating. Finally, Plaintiff alleges that engaging

AO 72A (Rev. 8/82) in minimal activities of daily living is "hardly consistent with an ability to perform a dayto-day competitive job[,]" and "says nothing about his mental limitations." (Doc. No. 19, pp. 4-5).

It is clear the ALJ considered all of the evidence before him, including Plaintiff's VA medical records, in determining Plaintiff's residual functional capacity, and that determination is supported by substantial evidence. As noted by the Magistrate Judge, a district court should affirm a Commissioner's decision when it is supported by substantial evidence. Dyer v. Barnhart, 395 F.3d 1206, 1212 (11th Cir. 2005). Contrary to Plaintiff's contention, the record reflects that Plaintiff engaged in more than minimal activities of daily living. The ALJ properly found that Plaintiff's allegations of limitation were not supported by the objective evidence of record.

Plaintiff's Objections are without merit. The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. The decision of the Commissioner is **AFFIRMED**. Plaintiff's Complaint is **DISMISSED**. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this <u>29th</u> day of September, 2009.

HONORABLE LISA GODBEY WOOD UNITED STATES DISTRICT JUDGE