

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
PADUCAH DIVISION
CIVIL ACTION NO. 5:09CV14-J

WILLIAM M. DEMYER

PLAINTIFF

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security

DEFENDANT

MEMORANDUM OPINION AND ORDER

Plaintiff William DeMyer seeks Disability Insurance Benefits which were denied by the Commissioner. This matter was referred to United States Magistrate Judge W. David King who recommends that the final decision of the matter be affirmed and the plaintiff's claim dismissed.

The plaintiff has timely filed objections to the Magistrate Judge's Report arguing that the ALJ erred in the following ways: 1) the ALJ's rejection of DeMyer's migraine syndrome was not supported by substantial evidence; 2) the ALJ's RFC finding fails to comply with SSR 96-9p because it did not address the frequency of the need for the sit/stand option. Thorough review of the record in light of claimant's arguments reveals that the ALJ's conclusions about the claimant's migraines are supported by substantial evidence of record. Furthermore, the ALJ's RFC findings are supported by substantial evidence in the record and comport with applicable law. Each of these issues were sufficiently addressed in the Magistrate Judge's Report and Recommendation.

In sum, this Court has conducted a de novo review of the Magistrate Judge's report in light of the objections thereto and the record as a whole. The Magistrate Judge's Report is hereby adopted, and its findings and conclusions are incorporated by reference herein.

Accordingly, for the reasons stated herein, IT IS ORDERED:

- 1) The Magistrate Judge's Report and Recommendation is ADOPTED, and those findings and conclusions are incorporated by reference herein;
- 2) The final Decision of the Commissioner denying benefits is AFFIRMED; and
- 3) Plaintiff's Complaint is DISMISSED, with prejudice.

This is a final and appealable Memorandum Opinion and Order, and there is no just cause for delay.