

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

SYLVESTER C JOHNSON

CIVIL ACTION

VERSUS

NO: 19-11385

**ANDREW SAUL, ACTING
COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION**

SECTION: T(2)

ORDER

Pursuant to 42 U.S.C. § 405(g) of the Social Security Act (the “Act”), Sylvester C. Johnson (“Plaintiff”) seeks judicial review of the final decision of the Commissioner of the Social Security Administration (the “Commissioner”), denying Plaintiff’s claim for a period of disability and disability insurance benefits (“DIB”) under Title II of the Act. 42 U.S.C. § 1382(c).

Plaintiff seeks a reversal of the Commissioner’s decision finding that Plaintiff was not disabled and an award of disability benefits from May 15, 2015 into the indefinite future.¹ Plaintiff contends that this matter should be remanded for consideration of new and material evidence of Plaintiff’s stroke that was submitted to the Appeals Council but never available to the Administrative Law Judge (“ALJ”).² Plaintiff further claims the ALJ erred in failing to provide a rationale for not awarding a closed period of disability and erred in not awarding a closed period of disability.³

On September 19, 2016, Plaintiff filed a Title II application for a period of disability and DIB, alleging a disability onset date of May 5, 2015. Plaintiff’s claim was denied at the agency level, and Plaintiff received a hearing before an ALJ on June 27, 2018. On October 16, 2018, the ALJ issued a decision finding that Plaintiff was not disabled. On April 28, 2019, the Appeals

¹ R. Doc. 1.

² R. Doc. 9.

³ R. Doc. 9.

Council declined to review the ALJ's decision, and the ALJ's decision became the Commissioner's final decision. On June 27, 2019, Plaintiff filed his complaint in the Court.

On March 3, 2020, the Magistrate Judge issued a Report and Recommendation, recommending that Plaintiff's appeal be denied and his complaint be **DISMISSED WITH PREJUDICE**.⁴ The Magistrate Judge determined that the Appeals Council did not err in denying review despite the new medical records Plaintiff submitted dated after the ALJ's decision and that the ALJ used the appropriate legal standards to weigh and resolve conflicts in the evidence. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation,⁵ and the Commissioner responded to Plaintiff's objections.⁶

Having carefully considered the administrative record, the applicable law, the Magistrate Judge's Report and Recommendation, the Plaintiff's Objections to Magistrate's Report and Recommendation, and the Commissioner's Response to Plaintiff's Objections to the Report, the Court **OVERRULES** Plaintiff's objections, **APPROVES** the Magistrate Judge's Report and Recommendation and **ADOPTS** the Report as the Court's opinion herein.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's objections to the Magistrate Judge's Report and Recommendation are **OVERRULED**, and that the Report and Recommendation is **ADOPTED** as the Court's opinion. **IT IS FURTHER ORDERED** that this action is **DISMISSED** with prejudice.

New Orleans, Louisiana, on this 11th day of September, 2020.


GREG GERARD GUIDRY
UNITED STATES DISTRICT JUDGE

⁴ R. Doc. 13.

⁵ R. Doc. 14.

⁶ R. Doc. 15.