

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

HARRY E. B., JR.,)	
)	
Plaintiff)	
)	
v.)	2:21-CV-00118-LEW
)	
KILOLO KIYAKAZI, Acting)	
Commissioner of Social Security,)	
)	
Defendant)	

ORDER AFFIRMING RECOMMENDED DECISION

On March 6, 2022, the United States Magistrate Judge filed with the court, with copies to counsel, his Report and Recommended Decision. Plaintiff filed a timely objection to the Recommended Decision, to which Defendant responded in due course.

I have reviewed and considered the Recommended Decision, together with the entire record, and I have made a de novo determination of all matters adjudicated by the Recommended Decision. I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in the Recommended Decision, and determine that no further proceeding is necessary.

As to Plaintiff's first point of error, the Commissioner's decision is supported by substantial evidence on the record.

As to Plaintiff's second point of error, that the Magistrate Judge's erred when addressing his *Collins v. Yellin* separation of powers argument, Plaintiff has not demonstrated that his claim of error has any support in district court decisions or circuit

court opinions. What law I have reviewed is all supportive of the Magistrate Judge’s recommendation, including *Collins* itself. *See* 141 S. Ct. 1761, 1787 (2021) (observing that where there was a valid appointment, an unconstitutional removal restriction affords “no reason to regard any of the actions taken by the [official] ... as void”); *see also id.* at 1802 (Kagan, J., concurring in part) (opining that “I doubt the mass of [Social Security Administration] decisions—which would not concern the President at all—would need to be undone” because “[w]hen an agency decision would not capture a President’s attention, his removal authority could not make a difference”). In short, where, as here, “[n]othing in the record suggests any link whatsoever between the removal provision and [Plaintiff’s] case,” *Kaufmann v. Kijakazi*, ___ F.4th ___, 2022 WL 1233238, at *5 (9th Cir. Apr. 27, 2022), *Collins*-based relief from an unfavorable administrative decision is not available. *See Scott E. v. Kijakazi*, 1:21-cv-00110-JAW, 2022 WL 669687, at *5-6 (D. Me. Mar. 6, 2022), report and recommendation adopted, 2022 WL 1026988 (D. Me. Apr. 6, 2022); *Kathy R. v. Kijakazi*, 2:21-cv-00095-JDL, 2022 WL 42916, at *3 (D. Me. Jan. 5, 2022), report and recommendation adopted, 2022 WL 558359 (D. Me. Feb. 24, 2022); *Jenny B. v. Kijakazi*, 1:21-cv-00143-NT, 2022 WL 872627, at *4 (D. Me. Mar. 24, 2022), report and recommendation pending review; *see also, e.g., Moore v. Kijakazi*, ___ F. Supp. 3d ___, 2022 WL 702518, at *4-5 (D.S.C. Mar. 9, 2022); *Stamm v. Kijakazi*, ___ F. Supp. 3d ___, 2021 WL 6197749, at *6-7 (M.D. Pa. Dec. 31, 2021); *Michele T. v. Comm’r of Soc. Sec.*, ___ F. Supp. 3d ___, 2021 WL 5356721, at *5-6 (W.D. Wash. Nov. 17, 2021).

It is therefore ORDERED that the Recommended Decision of the Magistrate Judge is AFFIRMED and ADOPTED, and the Commissioner's final administrative decision is AFFIRMED.

SO ORDERED.

Dated this 9th day of May, 2022.

/s/ Lance E. Walker
UNITED STATES DISTRICT JUDGE