

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

TIJON COX

*

Plaintiff,

*

v.

*

Civil Action No.: RDB-12-3208

SOCIAL SECURITY ADMINISTRATION

*

Defendant.

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MEMORANDUM OPINION

This matter is before the Court for consideration of Magistrate Judge Stephanie A. Gallagher’s Report and Recommendation (ECF No. 12) of July 10, 2013. Because this matter involves the review of an administrative determination as to Social Security and related benefits, it was referred to Magistrate Judge Gallagher on June 19, 2013, to conduct a hearing if necessary, and to submit to this Court proposed findings of fact and recommendations, pursuant to this Court’s Standing Order 2013-06. *See* Paperless Order Referring Case, ECF No. 11. In particular, Magistrate Judge Gallagher has submitted a Report and Recommendation regarding the Defendant Social Security Administration’s Motion to Dismiss for Lack of Jurisdiction (ECF No. 8), after review of that motion and the Plaintiff’s Opposition (ECF No. 10) thereto. These matters were fully briefed, and no hearing was deemed necessary. *See* Local Rule 105.6 (D. Md. 2011). For the reasons stated below, this Court ADOPTS the Report and Recommendation (ECF No. 12) of Magistrate Judge Gallagher and GRANTS the Defendant Social Security Administration’s Motion to Dismiss for Lack of Jurisdiction (ECF No. 8).

AUTHORITY FOR AND SCOPE OF REVIEW

Under 28 U.S.C. § 636(b)(1), Rule 72(a) of the Federal Rules of Civil Procedure, and Local Rule 301.5(b), an aggrieved party may file objections to or seek reconsideration of a magistrate judge's ruling or report and recommendation within 14 days of its issuance. After considering these objections, the district court may modify or set aside any portion of the magistrate judge's order or recommendation if it is "clearly erroneous or is contrary to law." *See, e.g., Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

RESULT OF REVIEW

The Court will not restate the status of the underlying cases and the nature of the dispute, relying instead on the statement of facts and procedural posture set forth in the Report and Recommendation of the Magistrate Judge.

The Court has carefully reviewed Magistrate Judge Stephanie A. Gallagher's Report and Recommendation (ECF No. 12) and the Plaintiff's Motion to Request Reconsideration (ECF No. 13). The Court approves the recommendations of Magistrate Judge Gallagher and concludes that her determinations are neither clearly erroneous nor contrary to law. Moreover, after careful review of the Plaintiff's Motion to Request Reconsideration, this Court determines that the Plaintiff's objections are unrelated to the reasons for which Magistrate Judge Gallagher recommends dismissal of this case—namely, this Court's lack of subject matter jurisdiction—and are therefore unavailing. The Plaintiff offers no basis for finding that this Court possesses jurisdiction. This Court fully agrees with the Magistrate Judge's conclusions that the Plaintiff is barred from bringing a claim against the Social Security Administration under the Federal Tort Claims Act and further that this Court lacks

jurisdiction to review the Administrative Law Judge's dismissal of the Plaintiff's claim for failure to appear at his hearing.

For these reasons, this Court ADOPTS the recommendation by Magistrate Judge Gallagher to grant the Defendant Social Security Administration's Motion to Dismiss for Lack of Jurisdiction (ECF No. 8). Accordingly, the Defendant's Motion to Dismiss (ECF No. 8) is GRANTED and the Plaintiff's Motion to Request Reconsideration (ECF No. 13) is DENIED.

CONCLUSION

For the foregoing reasons, the Court ADOPTS the reasoning of and AFFIRMS Magistrate Judge Stephanie A. Gallagher's Report and Recommendation (ECF No. 12), and DENIES Plaintiff TíJon Cox's Motion to Request Reconsideration (ECF No. 13). Accordingly, the Defendant Social Security Administration's Motion to Dismiss for Lack of Jurisdiction (ECF No. 8) is GRANTED, and Plaintiff TíJon Cox's Motion to Vacate the Defendant's Motion to Dismiss (ECF No. 10), which is properly construed as a Response in Opposition to the Defendant's Motion to Dismiss, is DENIED AS MOOT.

A separate Order follows.

Date: July 30, 2013

_____/s/_____
Richard D. Bennett
United States District Judge