UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 21-10898-RGS

TREMAYNE ELLISON,
Plaintiff

v.

KILOLO KIJAKAZI
Acting Commissioner of the
Social Security Administration,
Defendant

ORDER ON REPORT AND RECOMMENDATION
OF THE MAGISTRATE JUDGE

September 16, 2022

STEARNS, D.J.

I agree with Magistrate Judge Boal that this is a sad case. I also agree that the Commissioner acted appropriately in denying petitioner Tremayne Ellison's application for supplemental social security income benefits. More specifically, the Commissioner correctly determined that Ellison was not disabled as of the amended onset date (January 2, 2019), after considering all his impairments, including his substance abuse, and that, therefore, no further Drug Addiction and Alcoholism (DAA) materiality determination was required. The Commissioner also correctly concluded

that jobs exist in significant numbers in the national economy that Ellison could perform. Therefore, the Magistrate Judge's Recommendation is ADOPTED, petitioner's motion to reverse or remand the decision of the Commissioner is DENIED, and the Commissioner's motion to affirm is ALLOWED.[1] The Clerk will enter judgment for the Commissioner and close the case.

SO ORDERED.

/s/ Richard G. Stearns
UNITED STATES DISTRICT JUDGE

[1] Ellison filed a timely Objection to the Magistrate Judge's Report and Recommendation. The Objection more carefully hones Ellison's arguments on appeal that the Commissioner (or more precisely, the Administrative Law Judge (ALJ)) failed to properly apply Social Security policy with respect to DAA, and that she erred in her residual functional capacity (RFC) assessment. (Ellison is not pursuing his claim that the Appeals Council erred in refusing to consider his offer of "new and material evidence." *See* Obj. at 3 n.3 (Dkt #32)). After careful review of the Objection, I remain persuaded that the Magistrate Judge was correct in finding that the ALJ took great care to insure a proper DAA analysis. I also agree that the ALJ gave due consideration to Ellison's subjective complaints regarding his physical and mental limitations, but that these complaints were not consistent with the record evidence.