UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

KYLAN COSTON,

Plaintiff,

Case No. 16-10232

v

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
_____/

ORDER ADOPTING THE REPORT AND RECOMMENDATION, DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, AND AFFIRMING THE DECISION OF THE COMMISSIONER

Plaintiff Kylan Coston filed an application for Disability Insurance Benefits and Supplemental Security Income on July 26, 2013, alleging a disability onset date of January 1, 2008. After his claim was initially denied Plaintiff timely requested an administrative hearing, which was held on April 21, 2015. On June 19, 2015 the ALJ issued a written decision finding that Plaintiff was not disabled under the Social Security Act. That decision became final when the Appeals Council denied Plaintiff's request for review. Plaintiff then appealed to this Court on January 24, 2016. *See* Compl., ECF No. 1.

Plaintiff Coston filed a motion for summary judgment on April 28, 2016. ECF No. 14. Defendant Commissioner then filed a motion for summary judgment on July 5, 2016. ECF No. 16. On January 20, 2017 Magistrate Judge Patricia T. Morris issued a report and recommendation, finding that the ALJ's determination that Coston was not disabled was supported by substantial evidence. ECF No. 17. In so concluding, the magistrate judge agreed with the ALJ's finding that Plaintiff did not have a condition that met or equaled Listings 11.02

or 11.03. The magistrate judge therefore recommended that Plaintiff's motion for summary judgment be denied, Defendant Commissioner's motion for summary judgment be granted, and the decision of the ALJ be affirmed.

Although the magistrate judge's report explicitly stated that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendant filed any objections. The election not to file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 17, is **ADOPTED**.

It is further **ORDERED** that Plaintiff Coston's motion for summary judgment, ECF No. 14, is **DENIED**.

It is further **ORDERED** that Defendant Commissioner's motion for summary judgment, ECF No. 16, is **GRANTED**.

It is further **ORDERED** that the Commissioner's decision is **AFFIRMED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: February 8, 2017

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 8, 2017.

s/Kelly Winslow for
MICHAEL A. SIAN, Case Manager