

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

PATRICIA BREIDENICH,

Plaintiff,

Case. No. 19-11074

v.

Honorable Thomas L. Ludington
Magistrate Judge Elizabeth Stafford

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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

Born May 30, 1969, Breidenich was 44 years old at the time of her alleged onset date of November 1, 2013. ECF No. 6-3 at PageID.48. She submitted her application for benefits in October 2016. *Id.* at PageID.37. Breidenich had previous work as a fast food worker and a secretary. *Id.* at PageID.48. She claimed to be disabled from multiple sclerosis (MS), fatigue and numbness and tingling in all her extremities. ECF No. 6-3 at PageID.109–110. After the Commissioner initially denied her disability application, Breidenich requested a hearing, which took place in December 2017, and during which she and a vocational expert (VE) testified. ECF No. 6-2 at PageID.55–106. In a May 2018 written decision, the ALJ found Breidenich not disabled. *Id.* at PageID.37-50. The Appeals Council denied review, making the ALJ's decision the final decision of the Commissioner, and Breidenich timely filed for judicial review. *Id.* at PageID.23-26; ECF No. 1.

The matter was referred to Magistrate Judge Elizabeth Stafford. ECF No. 2. The parties filed cross motions for summary judgment. ECF Nos. 14, 16. On August 24, 2020, Judge Stafford

issued her report, recommending that Defendant's motion for summary judgment be granted, that Plaintiff's motion for summary judgment be denied, and that the decision of the commissioner be affirmed. ECF No. 17.

Although the magistrate judge's report states that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither party timely 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. *Id.*

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

It is further **ORDERED** that Defendant's Motion for Summary Judgment, ECF No. 16, is **GRANTED**.

It is further **ORDERED** that Plaintiff's Motion for Summary Judgment, ECF No. 14, is **DENIED**.

It is further **ORDERED** that the findings of the Commissioner are **AFFIRMED**.

Dated: September 14, 2020

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