

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JEFFREY A. MULLINS,

Plaintiff,
v.
Case. No. 19-CV-13443
Honorable Thomas L. Ludington
Magistrate Judge David R. Grand

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
/

**OPINION AND ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, GRANTING IN PART
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, AND REMANDING CASE**

On November 21, 2019, Plaintiff Jeffrey A. Mullins brought this action pursuant to 42 U.S.C. § 405(g), challenging the final decision of Defendant Commissioner of Social Security (the “Commissioner”) denying his application for Disability Insurance Benefits (“DIB”) under the Social Security Act (the “Act”). ECF No. 1. The matter was referred to Magistrate Judge David R. Grand. ECF No. 3. The parties filed cross motions for summary judgment. ECF Nos. 12, 16. On January 25, 2021, Magistrate Judge Grand issued his Report and Recommendation, recommending that Defendant’s Motion for Summary Judgment be denied, that Plaintiff’s Motion for Summary Judgment be granted in part, and that the case be remanded to the Administrative Law Judge (“ALJ”) for further proceedings. ECF No. 19.

In his Report and Recommendation, Magistrate Judge Grand describes the procedural history of this case as follows:

Mullins was 45 years old at the time of his alleged onset date of October 20, 2012, and at 5’7” tall weighed approximately 185 pounds during the relevant time period. (Tr. 41, 79, 261, 264). He completed the ninth grade – attending special education classes – but had no further education. (Tr. 95, 265). He has some experience working in construction, but he eventually stopped working in his last job because

his mental disabilities prevented him from performing the required tasks. (Tr. 41-42, 78, 80, 265-66, 290). He now alleges disability primarily as a result of cognitive deficits, substance abuse in remission, traumatic brain injuries, depression, and anxiety. (Tr. 43, 101, 113, 119, 264).

After Mullins' application for DIB was denied at the initial level on September 8, 2016 (Tr. 141-44), he timely requested an administrative hearing, which began on March 22, 2018, before ALJ David Mason, Jr. (Tr. 69-128). Mullins, who was represented by attorney Sarah Schairbaum, testified at this hearing, as did his wife, Kelly Mullins, and vocational expert ("VE") Michele Robb. (Id.). A supplemental hearing was held on August 9, 2018, at which time medical expert ("ME") Steven Golub, M.D. testified, as did VE John Stokes. (Tr. 37-68). On September 14, 2018, the ALJ issued a written decision finding that Mullins was not disabled under the Act between his alleged onset date (October 20, 2012) and his date last insured (December 31, 2015). (Tr. 15-30). On September 17, 2019, the Appeals Council denied review. (Tr. 1-5). Mullins timely filed for judicial review of the final decision on November 21, 2019. (ECF No. 1).

ECF No. 19 at PageID.1820–21 (footnote omitted). After reviewing the record and the parties' briefing, Magistrate Judge Grand recommended that the case be remanded for further proceedings pursuant to 42 U.S.C. § 405(g). As Magistrate Judge Grand explained, "the ALJ's decision to reject and/or ignore the opinions of [Plaintiff's treating medical provider] [was] simply not supported by substantial evidence, and [was] not the product of an even and thorough weighing of the competing evidence in the record." *Id.* at PageID.1839–40.

Although the Report and Recommendation stated that the parties could object to and seek review of the recommendation within 14 days of service, neither party has objected. The election not to file objections to the Report and Recommendation 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 Report and Recommendation, ECF No. 19, is **ADOPTED**.

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

It is further **ORDERED** that Plaintiff's Motion for Summary Judgment, ECF No. 12, is **GRANTED IN PART** to the extent it seeks remand and **DENIED IN PART** to the extent it seeks an award of benefits.

It is further **ORDERED** that the case is **REMANDED** pursuant to 42 U.S.C. § 405(g) for further proceedings consistent with the Report and Recommendation, ECF No. 19.

Dated: February 18, 2021

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