

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

JAMIE CUPP,

Plaintiff,

Civil Action No. 07-13701

v.

HONORABLE DENISE PAGE HOOD

COMMISSIONER OF  
SOCIAL SECURITY.

Defendant,

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**ORDER ACCEPTING REPORT AND RECOMMENDATION**

**I. INTRODUCTION**

This matter is before the Court on Magistrate Judge R. Steven Whalen's Report and Recommendation dated June 4, 2008[**Docket No. 10**], recommending that District Court GRANT Defendant's Motion for Summary Judgment, and DENY Plaintiff's Motion for Summary Judgment. The Plaintiff has not filed any objections to the Report and Recommendation.

**II. STANDARD OF REVIEW**

The standard of review to be employed by the Court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(c). This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." *Id.*

### III. ANALYSIS

The Social Security Act defines disabled as “the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which ... has lasted or can expect to last for a continuous period of not less than 12 months.” 42 U.S.C. §423(d)(1)(A). The Social Security Administration provides a five step process to determine if a person is disabled. The process weighs whether the claimant: 1) worked during the alleged period; 2) has a severe impairment; 3) has an impairment that meets or equals the requirements of an impairment listed in the regulations; 4) can return to past relevant work; and 5) if not, whether he or she can perform other work in the economy. 20 C.F.R. §416.920(a). The Plaintiff has the burden of proof concerning steps one through four, and the Defendant has the burden of proof regarding step five.

Plaintiff has failed to produce substantial evidence that her medical condition renders her disabled under 42 U.S.C. §423(d)(1)(A). Conversely, the Defendant has met his burden of proof regarding step five by means of showing contrary evidence to the Plaintiff’s treating physician’s testimony, discrediting Plaintiff’s allegations concerning the degree of her symptoms, and by the testimony of the Vocational Expert. As noted prior, the Plaintiff has not posed any objections to the denial of her summary judgment motion. This Court adopts the Magistrate Judge’s Report and Recommendation.

### IV. CONCLUSION

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge R. Steven Whalen [**Docket No. 10, filed on June 4, 2008**] is ACCEPTED and ADOPTED as this Court’s finding and conclusions of law.

IT IS ORDERED that Defendant's Motion for Summary Judgment [**Docket No. 9, filed March 14, 2008**] is GRANTED.

S/Denise Page Hood  
Denise Page Hood  
United States District Judge

Dated: September 25, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 25, 2008, by electronic and/or ordinary mail.

S/William F. Lewis  
Case Manager