

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

DAVID M. COOK,

Plaintiff,

v.

Case No. 08-13404

Hon. Gerald E. Rosen

Magistrate Judge Steven D. Pepe

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

At a session of said Court, held in  
the U.S. Courthouse, Detroit, Michigan  
on August 31, 2009

PRESENT: Honorable Gerald E. Rosen  
Chief Judge, United States District Court

On July 6, 2009, Magistrate Judge Steven D. Pepe issued a Report and Recommendation ("R & R") recommending that the Court grant the Defendant Commissioner of Social Security's motion for summary judgment and deny Plaintiff David M. Cook's motion for summary judgment. On July 17, 2009, Plaintiff filed a document captioned "Motion to Appeal Judgment," which the Court will treat as objections to the R & R.<sup>1</sup> The Court has now reviewed the R & R, Plaintiff's objections, the parties' underlying motions, and the record as a whole. For the reasons set forth

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<sup>1</sup>The Defendant Commissioner likewise has treated this submission as objections, and has filed a July 31, 2009 response to these objections.

briefly below, the Court finds no merit in Plaintiff's objections, and therefore adopts the Magistrate Judge's thorough and well-reasoned R & R as the opinion of this Court.

Plaintiff's principal objection is that he was not given a sufficient opportunity to gather and present evidence in support of his claim for disability benefits. Yet, as the Magistrate Judge explained in a March 24, 2009 order denying Plaintiff's various motions for subpoenas and search warrants, the scope of this Court's review of the Defendant Commissioner's decision is limited, and additional evidence that was not before the Administrative Law Judge ("ALJ") may be considered only for the purpose of determining whether a case should be remanded for further administrative proceedings to address this additional evidence. This Court simply is not permitted to engage in *de novo* substantive review of newly-produced evidence purportedly bearing upon a claim for disability benefits, nor is there any basis for permitting wide-ranging discovery in an effort to obtain such evidence. As stated in the March 24 order, Plaintiff has failed to identify a basis for permitting such additional evidence gathering in this case, even for the limited, permissible purpose of determining whether a remand is warranted. Moreover, it bears emphasis that the Magistrate Judge did address the additional evidence that Plaintiff attached as exhibits to his summary judgment motion, explaining in the R & R that these additional materials did not warrant a remand for further administrative proceedings. (*See* R & R at 22-24.) The Court fully concurs in the Magistrate Judge's disposition of this matter.

Plaintiff next asserts that he is entitled to a trial, to present expert testimony, and to

an award of benefits. Again, the only issue properly before this Court is whether the ALJ's decision is supported by substantial evidence in the administrative record. For the reasons stated by the Magistrate Judge in his thorough and comprehensive R & R, the Court finds that the ALJ's decision meets this standard.

Accordingly,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's July 6, 2009 Report and Recommendation is ADOPTED as the opinion of this Court. IT IS FURTHER ORDERED that, for the reasons stated in the R & R, Defendant's motion for summary judgment (docket #30) is GRANTED, and Plaintiff's motion for summary judgment (docket #24) is DENIED.

s/Gerald E. Rosen  
Chief Judge, United States District Court

Dated: August 31, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 1, 2009, by electronic and/or ordinary mail.

s/Ruth Brissaud  
Case Manager