

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CALVIN TURNBOW,

Plaintiff,

Case No. 09-14989

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 25)**  
**AND**  
**DENYING THE COMMISSIONER'S MOTION FOR SUMMARY JUDGMENT**  
**AND**  
**GRANTING IN PART PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**  
**AND**  
**REMANDING MATTER FOR FURTHER ADMINISTRATIVE PROCEEDINGS**

I.

This is a social security case. Plaintiff Calvin Turnbow appeals from the final determination of the Commissioner of Social Security (Commissioner) that he is not disabled and therefore not entitled to disability insurance benefits. The matter was referred to a magistrate judge for all pretrial proceedings. Plaintiff and the Commissioner filed cross motions for summary judgment. The magistrate judge issued a report and recommendation (MJRR) recommending that (1) the Commissioner's motion for summary judgment be denied, (2) plaintiff's motion for summary judgment be granted in part and (3) the matter be remanded for further administrative proceedings.

II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the MJRR waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the file and the MJRR and agrees with the magistrate judge.

III.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. The Commissioner's motion for summary judgment is DENIED. Plaintiff's motion for summary judgment is GRANTED IN PART. This matter is REMANDED for further administrative proceedings consistent with the MJRR.

SO ORDERED.

Dated: May 18, 2011

S/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, May 18, 2011, by electronic and/or ordinary mail.

S/Julie Owens  
Case Manager, (313) 234-5160