

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TONDA L. McEWEN,

Plaintiff,

CASE NO. 12-13298

HON. MARIANNE O. BATTANI

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

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**OPINION AND ORDER ADOPTING REPORT AND RECOMMENDATION GRANTING
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT OR REMAND AND
DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Tonda McEwen brings this action pursuant to 42 U.S.C. § 405(g), challenging the final decision of the Commissioner denying the application for supplemental security income and disability insurance benefits. Plaintiff filed the claim on February 2, 2009, alleging a disability onset date of August 1, 2008. In his Decision, dated November 6, 2010, the Administrative Law Judge ("ALJ") concluded that Plaintiff was not disabled.

After the Appeals Council denied review, McEwen timely filed this action for judicial review of the Commissioner's decision. The case was referred to Magistrate Judge Mona K. Majzoub pursuant to 28 U.S.C. § 636. In a Report and Recommendation ("R&R") dated August 2, 2013, Magistrate Judge Majzoub recommended that Defendant's Motion for Summary Judgment be denied and that Plaintiff's motion be granted. The Magistrate Judge also recommended that the matter be remanded to the Commissioner for further

proceedings consistent with the R&R pursuant to sentence four of 42 U.S.C. § 405(g).

In her Report and Recommendation, the Magistrate Judge informed the parties that objections to the R&R needed to be filed “within fourteen (14) days of service” and that a party’s failure to file objections would waive any further right of appeal. (Doc. No. 22 at 18). Neither party filed an objection. Moreover, this Court agrees with the thorough analysis contained in the R&R.

Accordingly, the Court **ADOPTS** the Magistrate Judge’s recommendation, **DENIES** Defendant’s Motion for Summary Judgment, **GRANTS** Plaintiff’s Motion for Summary Judgment, and **REMANDS** this matter pursuant to sentence four for further proceedings and consideration consistent with the Report and Recommendation.

IT IS SO ORDERED.

s/Marianne O. Battani
HON. MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATE: August 28, 2013

CERTIFICATE OF SERVICE

I hereby certify that on the above date a copy of this Order was served upon all counsel of record via the Court’s ECF Filing System.

s/Bernadette M. Thebolt
Case Manager