

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

RANDY THOMAS ALEXANDER,

Plaintiff,

v.

Case No. 13-11696

Honorable Denise Page Hood

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

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

This matter is before the Court on Magistrate Judge Charles E. Binder's Report and Recommendation on Defendant Commissioner's Motion for Summary Judgment [**Docket No. 5, filed July 1, 2013**]. Plaintiff Randy Thomas Alexander filed an Objection to the Magistrate's Report and Recommendation [**Docket No. 11, June 10, 2014**]. Defendant filed a Response to the Objection [**Docket No. 12, filed June 24, 2014**]. For the reasons stated below, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation in its entirety. Defendant Commissioner's Motion to Dismiss [**Docket No. 5, filed July 1, 2013**] is **GRANTED**.

Judicial review of the Commissioner's decision is limited in scope to determining whether the Commissioner employed the proper legal criteria in

reaching his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge (“ALJ”) must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court’s review of an ALJ’s decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if supported by substantial evidence, even if the record might support a contrary decision or if the district court arrives at a different conclusion. *Smith v. Secretary of HHS*, 893 F.2d 106, 108 (6th Cir. 1984); *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Court agrees with the Magistrate Judge that the 60-day statute of limitations in filing a Social Security appeal was not satisfied, and equitable tolling does not apply. The Magistrate Judge reviewed the record thoroughly in reaching his conclusion. The Court also agrees with the Magistrate Judge that the filing of an extension with the Appeals Council after the limitation period does not impact the analysis.

Plaintiff’s objections do not address the issue of why despite being represented by

counsel, Plaintiff did not file an extension of time until after the filing deadline had passed.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Charles E. Binder [**Docket No. 10, filed May 27, 2014**] is **ACCEPTED** and **ADOPTED** as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Defendant Commissioner's Motion to Dismiss [**Docket No. 5, filed July 1, 2013**] is **GRANTED**.

IT IS FURTHER ORDERED that the case is **DISMISSED** with prejudice.

IT IS SO ORDERED.

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

Dated: July 20, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 20, 2015, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager