

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KRIS R. FINKBEINER,

Plaintiff,

CASE NO. 13-13906
HON. MARIANNE O. BATTANI

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

_____ /

**OPINION AND ORDER ADOPTING REPORT AND RECOMMENDATION
GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND
DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND
REMANDING PURSUANT TO SENTENCE SIX OF 42 U.S.C. § 405(g)**

Plaintiff Kris Finkbeiner 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 October 26, 2009, alleging a disability onset date of December 30, 2008. In his Decision, dated March 30, 2012,, 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 Charles E. Binder pursuant to 28 U.S.C. § 636. In a Report and Recommendation ("R&R") dated January 8, 2015, Magistrate Judge Binder 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 his 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. 21 at 18). Neither party filed an objection. Moreover, this Court agrees with the 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 Six for further proceedings and consideration consistent with the Report and Recommendation.

IT IS SO ORDERED.

Date: February 17, 2015

s/Marianne O. Battani
MARIANNE O. BATTANI
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court's ECF System to their respective email addresses or First Class U.S. mail to the non-ECF participants on February 17, 2015.

s/ Kay Doaks
Case Manager