

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JEFFREY MICHAEL ZERBST,

Plaintiff,

CASE NO. 14-10754  
HON. MARIANNE O. BATTANI

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

\_\_\_\_\_ /

**ORDER ADOPTING REPORT AND RECOMMENDATION,  
GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT, DENYING DEFENDANT'S MOTION FOR SUMMARY  
JUDGMENT, AND REMANDING PURSUANT TO SENTENCE FOUR**

Plaintiff Jeffrey Zerbst brings this action pursuant to 42 U.S.C. § 405(g), challenging the final decision of the Commissioner denying his application for disability insurance benefits and supplemental security income benefits. In her Decision, dated November 13, 2012, the Administrative Law Judge ("ALJ") concluded that Plaintiff was not entitled to benefits because he was capable of performing a significant number of jobs in the national economy.

After the Appeals Council denied review, Zerbst 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 February 20, 2015, Magistrate Judge Majzoub recommended that Defendant's Motion for Summary Judgment be denied and that Plaintiff's motion be

granted in part and denied in part. The Magistrate Judge also recommended that this matter be remanded to the Commissioner pursuant to Sentence Four for a proper assessment of the opinion of Plaintiff's treating psychiatrist, Dr. Surendra Kelwala.

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. 16 at 16). 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 IN PART and DENIES IN PART** Plaintiff's Motion for Summary Judgment, and **REMANDS** this matter for further proceedings pursuant to Sentence Four.

**IT IS SO ORDERED.**

Date: March 24, 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 March 24, 2015.

s/ Kay Doaks  
Case Manager