Jones v. Social Security Doc. 19

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

CARLA L. JONES,	
Plaintiff,	Cara Na. 44.44000
V.	Case No. 14-14809
•	HONORABLE AVERN COHN
COMMISSIONER OF SOCIAL SECURITY,	
Defendant.	

ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 18)

AND

GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT (Doc. 14)

AND

DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (Doc. 16)

AND

REMANDING MATTER FOR FURTHER ADMINISTRATIVE PROCEEDINGS

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This is a social security case. Plaintiff Carla L. Jones appeals from the final determination of the Commissioner of Social Security (Commissioner) that she 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. Plaintiff requested that the Commissioner's decision be reversed and benefits awarded, or that the matter be remanded for further proceedings.

The magistrate judge issued a report and recommendation (MJRR), recommending that plaintiff's motion be granted as to a remand and the

Commissioner's motion be denied. (Doc. 18) Specifically, the magistrate judge recommends that the matter be remanded to the Administrative Law Judge (ALJ) under sentence four<sup>1</sup> so that the ALJ may give proper weight to plaintiff's treating physician psychiatrist and give the required "good cause" reasons in the notice of determination for the weight given.

II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation 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 MJRR and agrees with the magistrate judge. Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Plaintiff's motion for summary judgment is GRANTED IN PART AND DENIED IN PART. The Commissioner's motion for summary judgment is DENIED.

<sup>&</sup>lt;sup>1</sup> "A district court's authority to remand a case for further administrative proceedings is found in 42 U.S.C. § 405(g)." Hollon v. Commissioner, 447 F.3d 477, 482-83 (6th Cir. 2006). The statute permits only two types of remand: a sentence four (post-judgment) remand made in connection with a judgment affirming, modifying, or reversing the Commissioner's decision; and a sentence six (pre-judgment) remand where the court makes no substantive ruling as to the correctness of the Commissioner's decision. Hollon, 447 F.3d at 486 (citing Melkonyan v. Sullivan, 501 U.S. 89, 99-100, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991)).

This matter is REMANDED for further administrative proceedings consistent with the MJRR.

SO ORDERED.

S/Avern Cohn AVERN COHN UNITED STATES DISTRICT JUDGE

Dated: September 29, 2015 Detroit, Michigan