

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARTA PARDO,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 15-10597

Honorable Nancy G. Edmunds

**ORDER ACCEPTING AND ADOPTING REPORT AND RECOMMENDATION [14],
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT [13] AND
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [10]**

This matter comes before the Court on the Magistrate Judge's report and recommendation. (Dkt. 14.) The Magistrate Judge recommends granting Defendant's motion for summary judgment and denying Plaintiff's motion for summary judgment. (*Id.*) Plaintiff timely filed two objections and Defendant filed a response to the objections. (Dkt. 15, 16.) Being fully advised in the premises and having reviewed the record and the pleadings, the Court hereby **OVERRULES** Plaintiff's objections and **ACCEPTS AND ADOPTS** the Magistrate Judge's report and recommendation. It is further ordered that Plaintiff's motion for summary judgment is **DENIED**, Defendant's motion for summary judgment is **GRANTED**, and the case is hereby **DISMISSED**.

Plaintiff brings suit pursuant to 42 U.S.C. § 405(g), challenging Defendant's final decision denying her application for disability benefits under the Social Security Act. (Dkt. 1.) The Magistrate Judge recommends granting summary judgment in favor of Defendant, finding that substantial evidence supports the ALJ's conclusion that Plaintiff is not disabled

under the Social Security Act. Plaintiff objects to two findings in the report and recommendation: (1) that substantial evidence supported the ALJ's evaluation of the credibility of Plaintiff's testimony and (2) that substantial evidence supported the ALJ's decision to discount Plaintiff's treating physician's opinion. These "objections," however, are the same two arguments made in Plaintiff's motion for summary judgment, with little to no reference to the report and recommendation. Those arguments were properly considered and rejected by the Magistrate Judge, and the Court is not obligated to address objections that merely rehash earlier arguments and fail to specifically identify errors in the report and recommendation. See *Nork v. Comm'r of Social Sec.*, No. 14-12511, 2015 WL 3620482, at *1 (E.D. Mich. June 9, 2015).

The portions of Plaintiff's objections that at least reference the report and recommendation also fail. With regard to her first objection, Plaintiff contends, "contrary to the Magistrate [Judge]'s assertion," the ALJ "did not ... provide any reason for discrediting Plaintiff's testimony beyond general statements that she had 'credited claimant's statements to the greatest extent possible in light of the above objective findings.'" (Dkt. 15, at 4.) But even the excerpted language undermines Plaintiff's argument that the ALJ failed to provide "any reason" for discrediting Plaintiff's testimony—the quoted language itself references "the above objective findings." (*Id.*) The Court agrees with the Magistrate Judge's well-reasoned conclusion that the ALJ supported her credibility determination with substantial evidence, including Plaintiff's daily living activities, objective medical evidence, and Plaintiff's lack of adherence to prescribed treatment.

With regard to her second objection, Plaintiff argues that a magistrate judge may not "set personal expertise against that of an examining physician." (Dkt. 15, at 5.) But Plaintiff

does not attempt to explain how the Magistrate Judge purportedly did this here. Rather, the report and recommendation thoroughly considers the ALJ's reasons for giving little weight to the treating physician's opinion¹ that Plaintiff was "under significant limitations in her activity." (Dkt. 14, at 15-17.) For example, the Magistrate Judge points to the ALJ's discussion of inconsistencies between the physician's opinion and Plaintiff's CT findings, her daily living activities, and even the doctor's own progress notes. (*Id.*) The Court finds that the Magistrate Judge did not "set personal expertise against that of an examining physician" in any way, and agrees with the conclusion that substantial evidence supported the ALJ's decision to discount Plaintiff's treating physician's opinion.

For the above-stated reasons, the Court hereby OVERRULES Plaintiff's objections and ACCEPTS AND ADOPTS the Magistrate Judge's Report and Recommendation. It is further ordered that Plaintiff's motion for summary judgment is DENIED, Defendant's motion for summary judgment is GRANTED, and the case is hereby DISMISSED.

SO ORDERED.

S/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: March 17, 2016

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 17, 2016, by electronic and/or ordinary mail.

S/Carol J. Bethel
Case Manager

¹ As the Magistrate Judge notes, the Court need not address Defendant's argument that the physician's statement was not a "medical opinion subject to the Treating Physician's Rule" because Plaintiff's substantive argument lacks merit. (See Dkt. 14, at 15 n.5.)