

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KIRK A. ERDMANN,

Plaintiff,

CASE NO. 15-10816
HON. DENISE PAGE HOOD

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

**ORDER ACCEPTING REPORT AND RECOMMENDATION (DOC # 32)
TO DENY PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (DOC #
27) AND TO GRANT DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT (DOC # 28)**

This matter is before the Court on a Report and Recommendation (Doc # 32) filed by Magistrate Judge Mona K. Majzoub on Plaintiff Kirk A. Erdmann's Motion for Summary Judgment (Doc # 27), and Defendant Commissioner of Social Security's Motion for Summary Judgment (Doc # 28). To date, no objections were filed to the Report and Recommendation, and the time to file such has passed.

The standard of review by the district court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court "shall make a *de novo* determination of those portions of the report or the specified proposed findings or

recommendations to which an objection is made.” 28 U.S.C. § 636(b)(1)(C). The court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* In order to preserve the right to appeal the magistrate judge’s recommendation, a party must file objections to the Report and Recommendation within fourteen (14) days of service of the Report and Recommendation. Fed. R. Civ. P. 72(b)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Howard v. Sec’y of Health & Human Servs.*, 932 F.2d 505, 508-09 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

After review of the Magistrate Judge’s Report and Recommendation, the Court finds that her findings and conclusions are correct. The Court agrees with the Magistrate Judge that the Administrative Law Judge’s (“ALJ”) formulation of Erdmann’s Residual Functional Capacity (“RFC”)—unskilled work that deals primarily with objects instead of people—sufficiently accounts for Erdmann’s moderate limitations in social functioning. The RFC is supported by substantial evidence as set forth by the Magistrate Judge in the Report and Recommendation, which notes that the ALJ discussed the fact that Erdmann is currently employed in a semi-skilled to skilled job as a part-time video camera operator, requiring him to receive instructions and interact with others, as well as requiring greater mental functioning than is required of unskilled work.

The Court agrees with the Magistrate Judge that Erdmann's arguments regarding the ALJ's formulation of Erdmann's RFC fail; the ALJ gave the medical evidence a full and fair review. The Court also agrees with the Magistrate Judge that the ALJ did not err by relying on the Grid because Erdmann's nonexertional limitations do not significantly erode the occupational base of work. The Court further agrees that the ALJ's assessment of Erdmann's credibility is supported by substantial evidence, as set forth by the Magistrate Judge, and should not be disturbed.

Accordingly,

IT IS ORDERED that Magistrate Judge Mona K. Majzoub's Report and Recommendation (Doc # 32) is ACCEPTED and ADOPTED as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff Kirk A. Erdmann's Motion for Summary Judgment (Doc # 27) is DENIED for the reasons set forth above.

IT IS FURTHER ORDERED that Defendant Commissioner of Social Security's Motion for Summary Judgment (Doc # 28) is GRANTED for the reasons set forth above.

IT IS FURTHER ORDERED that this action is DISMISSED with prejudice.

Dated: March 22, 2017

s/Denise Page Hood
Chief, U.S. District Court

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 22, 2017, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager