

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

BEVERLY ANN ESTRADA,

Plaintiff,

CASE NO. 16-10524
HON. DENISE PAGE HOOD

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

**OPINION AND ORDER ADOPTING REPORT AND
RECOMMENDATION [#22] TO DENY PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT [#14] AND TO GRANT DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT [#17]**

This matter is before the Court on a Report and Recommendation (Doc # 22) filed by Magistrate Judge Stephanie Dawkins Davis on Plaintiff Beverly Ann Estrada's Motion for Summary Judgment (Doc # 14), and Defendant Commissioner of Social Security's Motion for Summary Judgment (Doc # 17). To date, no objections were filed to the Report and Recommendation, and the time to file such has passed. The Court ACCEPTS and ADOPTS the Report and Recommendation, DENIES Estrada's Motion for Summary Judgment and GRANTS the Commissioner's Motion for Summary Judgment.

The background facts of this matter are adequately set forth in the Magistrate Judge's Report and Recommendation, and the Court adopts them here.

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 Plaintiff has not presented material evidence that would have changed the outcome of the Administrative Law Judge's (“ALJ”) decision. The Court also agrees with the Magistrate Judge that the ALJ's formulation of Estrada's Residual Functional Capacity (“RFC”)—light work with limitations—sufficiently

accounts for Estrada's physical limitations. The RFC is sufficiently supported by substantial evidence as set forth by the Magistrate Judge in the Report and Recommendation, and is within the discretion accorded the administrative fact-finder. The Court further agrees with the Magistrate Judge that substantial evidence supports the ALJ's credibility determination.

Accordingly,

IT IS ORDERED that Magistrate Judge Stephanie Dawkins Davis's Report and Recommendation (Doc # 22) is ACCEPTED and ADOPTED as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Defendant Commissioner of Social Security's Motion for Summary Judgment (Doc # 17) is GRANTED.

IT IS FURTHER ORDERED that Plaintiff Estrada's Motion for Summary Judgment (Doc # 14) is DENIED.

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

Dated: September 15, 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 September 15, 2017, by electronic and/or ordinary mail.

s/Julie Owens Acting in the Absence of LaShawn R. Saulsberry
Case Manager