

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KEVIN SMITHERMAN,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 17-12607

Hon. Marianne O. Battani

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**ORDER ADOPTING MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Kevin Smitherman brings this action pursuant to 42 U.S.C. § 405(g), challenging the final decision of the Defendant Commissioner of Social Security denying his applications for disability insurance benefits under Title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and for supplemental security income under Title XVI of the Act, 42 U.S.C. § 1381 *et seq.* The case was referred to Magistrate Judge David R. Grand pursuant to 28 U.S.C. § 636(b)(1)(B) for review of the Commissioner's decision.

The parties filed cross-motions for summary judgment. In a report and recommendation ("R & R") dated May 7, 2018, the Magistrate Judge recommended that the Court deny Plaintiff's motion for summary judgment, grant Defendant's motion for summary judgment, and affirm the decision of the Defendant Commissioner. The Magistrate Judge also informed the parties that any desired objections to the R & R were to be filed within 14 days after service of the R & R, and that a party's failure to file

objections would constitute a waiver of any further right of appeal. (Dkt. 20, R & R at 14.)

Neither party has filed objections to the R & R. Because no objections have been filed, the parties have waived their right to *de novo* review and appeal. Moreover, having reviewed the R & R and the remainder of the record, this Court fully concurs in the Magistrate Judge's analysis and recommended disposition of this case.

Accordingly, the Court **ADOPTS** the Magistrate Judge's May 7, 2018 report and recommendation (Dkt. 20). In accordance with the Magistrate Judge's R & R, the Court **DENIES** Plaintiff's motion for summary judgment (Dkt. 16), **GRANTS** Defendant's motion for summary judgment (Dkt. 19), and **AFFIRMS** the final administrative decision of the Defendant Commissioner of Social Security.

**IT IS SO ORDERED.**

Date: September 24, 2018

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 September 24, 2018.

s/ Kay Doaks  
Case Manager