

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT BONDARENOK,

Plaintiff,

v.

Civil Case No. 19-12480
Honorable Linda V. Parker

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**OPINION AND ORDER (1) ADOPTING MAGISTRATE JUDGE'S JULY
13, 2020 REPORT AND RECOMMENDATION [ECF NO. 17]; (2)
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [ECF
NO. 15]; (3) GRANTING DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT [ECF NO. 16]; AND (4) AFFIRMING DEFENDANT'S
DECISION**

On August 23, 2019, Plaintiff Robert Bondarenok filed this lawsuit challenging the Commissioner of Social Security's ("Commissioner") final decision denying Plaintiff's application for social security benefits under the Social Security Act. (ECF No. 1.) This Court referred the matter to Magistrate Judge R. Steven Whalen for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. §636(b)(1)(A) and/or a report and recommendation ("R&R") on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). (ECF No. 3.) The parties subsequently filed cross-motions for summary judgment. (ECF Nos. 15, 16.)

On July 13, 2020, Magistrate Judge Whalen issued an R&R recommending that this Court grant the Commissioner’s motion and deny Plaintiff’s motion. (ECF No. 17.) In the R&R, Magistrate Judge Whalen rejects Plaintiff’s argument that the modifiers in the ALJ’s hypothetical question—which helped form the basis of the ALJ’s residual functional capacity determination—did not sufficiently account for Plaintiff’s moderate limitation in concentration, persistence, and pace. (*Id.* at Pg. ID 786-88.) Magistrate Judge Whalen also rejects Plaintiff’s assertion that the ALJ erred in finding that Plaintiff did not experience more than mild limitation in interacting with others. (*Id.* at Pg. ID 789.) At the conclusion, Magistrate Judge Whalen advises the parties that they may object to and seek review of the R&R within 14 days of service upon them. (*Id.* at Pg. ID 790.) He further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.* (citing *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec’y of Health & Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981))) Neither party filed objections to the R&R and the time do so has expired.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Whalen. The Court therefore adopts the R&R.

Accordingly,

IT IS ORDERED that Plaintiff's Motion for Summary Judgment (ECF No. 15) is **DENIED**.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment (ECF No. 16) is **GRANTED**.

IT IS FURTHER ORDERED that Defendant's decision finding Plaintiff not disabled under the Social Security Act is **AFFIRMED**.

IT IS SO ORDERED.

s/ Linda V. Parker

LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: September 8, 2020