

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CARA BROWN,

Plaintiff,

Case No: 1:12-cv-1253

v

HON. JANET T. NEFF

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

OPINION AND ORDER

Plaintiff seeks judicial review of a decision of the Commissioner of the Social Security Administration denying her claim for disability insurance benefits (DIB) and Supplemental Security Income (SSI). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that this Court affirm the decision of the Administrative Law Judge (ALJ) rendered on behalf of the Commissioner. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. Defendant filed a response to the objections. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of the portions of the Report and Recommendation to which Plaintiff objects. The Court denies the objections and enters this Opinion and Order.

The ALJ issued a decision finding that Plaintiff was not disabled. Plaintiff argued, in pertinent part, that the decision should be overturned because the ALJ "erred in failing to consider functional limitations established by treating and examining sources" (Dkt 15, Pl. Br. at 7). Specifically, she argued that the ALJ failed to give adequate weight to a residual functional capacity (RFC) questionnaire completed by a nurse practitioner (*id.* at 9).

The Magistrate Judge rejected Plaintiff's argument, determining that the ALJ considered the nurse practitioner's opinions and found that they were entitled to little weight because the nurse practitioner ignored the evidence that Plaintiff was malingering and accepted all of Plaintiff's complaints without questioning her secondary gain motive (R&R, Dkt 23 at 10). The Magistrate Judge found that "[t]he record shows that the ALJ was justified in placing little weight on the RFC questionnaire, as it was not well supported and conflicted with more substantial evidence, as shown below" (*id.* at 7). The Magistrate Judge concluded that the ALJ "did not commit error when he gave greater weight to the opinions of two physicians and a psychologist, because they possessed greater expertise and their opinions were consistent with the record as a whole" (*id.* at 11).

In her objections to the Report and Recommendation, Plaintiff restates the arguments she presented to the Magistrate Judge, asserting that the opinions of a consulting examiner and the treating psychological nurse practitioner are not inconsistent (Objs., Dkt 24 at 2-3) and that the nurse practitioner's opinion was given insufficient weight (*id.* at 4-6). In response, Defendant asserts that Plaintiff "simply rehashes her previous arguments" (Dkt 25 at 1). Defendant argues that the ALJ properly gave less weight to the nurse practitioner's opinion than to the opinions of the consultative examiner and the State agency nonexamining medical consultants (*id.* at 3). Defendant rejects Plaintiff's assertion that the opinion of the consultative examiner who examined Plaintiff in March 2010 and conducted a mental status examination supported, rather than contradicted, the nurse practitioner's assessment, opining that the consultative examiner's examination was merely "benign" (*id.* at 5-6).

Plaintiff's discussion of the testimony and evidence does not demonstrate any factual or legal error by the Magistrate Judge in his review. The Magistrate Judge properly determined that the

ALJ's reconciliation and weighing of the opinions was supported by substantial evidence in the record. That Plaintiff disagrees, for various reasons, with the construction and weight the ALJ gave the nurse practitioner's opinion does not demonstrate error requiring reversal. *See Buxton v. Halter*, 246 F.3d 762, 772-73 (6th Cir. 2001) ("The findings of the Commissioner are not subject to reversal merely because there exists in the record substantial evidence to support a different conclusion."). Accordingly:

IT IS HEREBY ORDERED that the Objections (Dkt 24) are DENIED, the Report and Recommendation of the Magistrate Judge (Dkt 23) is APPROVED and ADOPTED as the Opinion of the Court, and the decision of the Commissioner of Social Security is AFFIRMED. A Judgment will be entered consistent with this Opinion and Order.

Dated: April 3, 2014

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge