

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEVE J. BERRY,

Plaintiff,

CASE NO. 1:13-CV-868

v.

HON. ROBERT J. JONKER

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

_____ /

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Brenneman’s Report and Recommendation in this matter (docket # 21) and Plaintiff’s Objection to the Magistrate Judge’s Report and Recommendation (docket # 25). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997).

Specifically, the Rules provide that:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's objection. The Court finds the Magistrate Judge's Report and Recommendation (docket # 21) is factually sound and legally correct.

The Magistrate Judge recommends affirming the decision of the ALJ to deny Plaintiff's claim for disability insurance benefits. Plaintiff contends that the Report and Recommendation fails to consider Plaintiff's argument that the ALJ herself neglected to evaluate one particular medical opinion, dated January 26, 2010, out of many provided by Dr. Eastman, Plaintiff's treating physician. Plaintiff is mistaken. The ALJ's written decision details objective evidence the ALJ found contrary to certain of Dr. Eastman's medical opinions, including the very opinion Plaintiff claims she overlooked. (A.R., docket # 9-2, at 24-25.) As the Report and Recommendation points out, the ALJ's finding that objective evidence does not support certain of Dr. Eastman's medical opinions is a good reason for assigning those opinions little weight. Plaintiff's objection fails.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (docket # 21) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that the Commissioner's decision is **AFFIRMED**.

Dated: February 6, 2015

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE