

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

ROBERT T. FOBES

PLAINTIFF

v.

CIVIL NO. 1:15cv316-HSO-FKB

CAROLYN W. COLVIN, ACTING COMMISSIONER
OF SOCIAL SECURITY ADMINISTRATION

DEFENDANT

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION [11], DENYING PLAINTIFF'S MOTION FOR
JUDGMENT ON THE PLEADINGS [8], AFFIRMING DECISION OF
COMMISSIONER, AND DISMISSING PLAINTIFF'S COMPLAINT [1]

This matter comes before the Court on the Report and Recommendation [11] of United States Magistrate Judge F. Keith Ball, entered in this case on January 30, 2017. After due consideration of the Report and Recommendation, Plaintiff Robert T. Fobes' Complaint [1] and Motion for Judgment on the Pleadings [8], the record as a whole, and relevant legal authority, the Court finds that the Magistrate Judge's Report and Recommendation should be adopted, that Plaintiff's Motion for Judgment on the Pleadings [8] should be denied, that the decision of the Commissioner should be affirmed, and that Plaintiff's Complaint should be dismissed.

I. BACKGROUND

On September 17, 2015, Plaintiff Robert T. Fobes ("Plaintiff") filed his Complaint [1] asserting that he "is disabled" and that "the conclusions and findings

of fact of the [D]efendant are not supported by substantial evidence and are contrary to law and regulation.” Compl. [1] at 2. Plaintiff seeks a finding that he is “entitled to disability benefits under the provisions of the Social Security Act” or, in the alternative, a “remand for a further hearing.” *Id.* On December 22, 2015, Defendant Carolyn W. Colvin, Acting Commissioner of the Social Security Administration (“Commissioner”), filed an Answer [4] and submitted the Administrative Record [5].

On March 7, 2016, Plaintiff filed his Motion for Judgment on the Pleadings [8]. The Commissioner’s Memorandum in Opposition [10] was filed on May 3, 2016.

On January 30, 2017, United States Magistrate Judge F. Keith Ball entered his Report and Recommendation [11], recommending that the decision of the Commissioner be affirmed. To date, no objection to the Report and Recommendation has been filed. Plaintiff is represented by counsel in this proceeding.

II. DISCUSSION

Where no party has objected to a magistrate judge’s proposed findings of fact and recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. §636(b)(1) (“a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which

objection is made"). In such cases, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court concludes that Magistrate Judge Ball's findings are not clearly erroneous, nor are they an abuse of discretion or contrary to law. For these reasons, the Court will adopt Magistrate Judge F. Keith Ball's Report and Recommendation [11] as the opinion of this Court and deny Plaintiff's Motion for Judgment on the Pleadings [8].

III. CONCLUSION

After a thorough review and consideration of Magistrate Judge F. Keith Ball's Report and Recommendation [11] and the record as a whole, the Court concludes that the Magistrate Judge's Report and Recommendation [16] should be adopted as the finding of this Court, that Plaintiff's Motion for Judgment on the Pleadings [8] should be denied, that the Commissioner's decision should be affirmed, and that Plaintiff's Complaint [1] should be dismissed.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Magistrate Judge's Report and Recommendation [11], entered in this case on January 30, 2017, is **ADOPTED** as the finding of this Court and that Plaintiff's Motion for Judgment on the Pleadings [8] is **DENIED**. The Commissioner's decision is **AFFIRMED**. Plaintiff's Complaint [1] is **DISMISSED WITH PREJUDICE**. A separate

judgment will be entered in accordance with this Order, as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED AND ADJUDGED, this the 22nd day of February, 2017.

s/ Halil Suleyman Ozerdem

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE