

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

BRITNEY ANN BYRD

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PLAINTIFF

v.

Civil No. 1:19-cv-574-HSO-JCG

**COMMISSIONER OF SOCIAL
SECURITY**

DEFENDANT

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION [18] AND REMANDING CASE TO THE
COMMISSIONER**

BEFORE THE COURT is United States Magistrate Judge Robert P. Myers's Report and Recommendation [18], which recommends remanding this case for further proceedings. After due consideration of the Report and Recommendation [18], the record, and relevant legal authority, the Court finds that the Magistrate Judge's Report and Recommendation [18] should be adopted and that this case should be remanded to the Defendant Commissioner of Social Security for further proceedings.

I. BACKGROUND

Plaintiff Britney Ann Byrd ("Plaintiff"), proceeding pro se, filed this action under 42 U.S.C. § 405(g) seeking judicial review of the denial by Defendant Commissioner of Social Security ("Commissioner") of her application for disability insurance benefits ("DIB") under Title II of the Social Security Act. Compl. [1]. Plaintiff filed her DIB claim on September 12, 2016, when she was 34 years old, asserting that she became disabled on January 25, 2012, and was last insured on

September 30, 2012. Administrative R. [13] at 207, 221. She was previously employed as a cashier, receptionist, and tax preparer. *Id.* at 227. Plaintiff claimed that she suffered from five (5) medical conditions that prevented her from working: (1) fibromyalgia; (2) depression; (3) anxiety; (4) joint pain; and (5) ADHD. *Id.* at 226. The Social Security Administration (the “Administration”) denied Plaintiff’s application initially and on reconsideration. *Id.* at 173, 178-86. After a hearing held on August 16, 2018, an Administrative Law Judge (“ALJ”) denied her claim on the grounds that Plaintiff did not suffer from any “severe impairments.” *Id.* at 20-21. Plaintiff submitted additional medical records and appealed the ALJ’s decision to the Appeals Council, which denied her request for review and the appeal itself because there was no “reasonable probability” that the additional records would change the ALJ’s decision. *Id.* at 5. Plaintiff then filed a Complaint in this Court on September 12, 2019. Compl. [1].

On January 29, 2021, the Magistrate Judge entered a Report and Recommendation [18], recommending that the Court remand the case for further findings by the Commissioner. R. & R. [18] at 9. The Report and Recommendation concluded that “no fact finder has made findings on the record” about Plaintiff’s additional medical records, “which seriously, but not overwhelmingly, conflict with the ALJ’s conclusion” regarding Plaintiff’s fibromyalgia. *Id.* Because the “Court would be required to resolve these conflicts and engage in fact-finding,” a task for the Commissioner, the Magistrate Judge recommended remanding the case for

further proceedings. *Id.* Neither party has filed any Objections to the Report and Recommendation, and the time for doing so has passed. *Id.* at 9-10.

II. DISCUSSION

Because neither party has objected to the Magistrate Judge's Report and Recommendation [18], the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1). The Court need only review the Report and Recommendation [18] and determine whether it is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Having conducted the required review, the Court finds that the Report and Recommendation [18] is neither clearly erroneous nor contrary to law and that it should be adopted as the finding of the Court. This case should be remanded for further proceedings and findings by the Commissioner.

III. CONCLUSION

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Magistrate Judge's Report and Recommendation [18], entered in this case on January 29, 2021, is **ADOPTED** as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, this action is **REMANDED** to the Commissioner of Social Security for further proceedings consistent with the Court's Order.

SO ORDERED AND ADJUDGED, this the 18th day of February, 2021.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE