

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

ALICE RUSH

PLAINTIFF

V.

CAUSE NO. 3:14-CV-496-CWR-FKB

**CAROLYN W. COLVIN, *Commissioner,*
*United States Social Security Administration***

DEFENDANT

ORDER

Before the Court is the plaintiff's objection to the Magistrate Judge's Report and Recommendation (R&R). Docket No. 15. The R&R recommends affirming the Commissioner's denial of Supplemental Security Income. Docket No. 14.

The Court has reviewed *de novo* the portions of the R&R to which the plaintiff has objected. 28 U.S.C. § 636(b). It finds that remand is not warranted. Although the ALJ ideally would have applied the *Newton* factors in evaluating Dr. Soriano's opinion, *see Newton v. Apfel*, 209 F.3d 448, 456 (5th Cir. 2000) and 20 C.F.R. § 404.1527(c), such an analysis may not have been necessary in this circumstance. The Fifth Circuit has found that the *Newton* factors need not be explicitly considered where, as here, the ALJ credits contradictory evidence from another treating or examining physician. *Qualls v. Astrue*, 339 F. App'x 461, 466-67 (5th Cir. 2009) (unpublished).

Accordingly, this Court adopts the R&R's findings and conclusions as its own, grants the Commissioner's motion to affirm, and denies the plaintiff's motion for summary judgment. A separate Final Judgment will issue this day.

SO ORDERED, this the 12th day of August, 2015.

s/ Carlton W. Reeves
UNITED STATES DISTRICT JUDGE