

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

DAVID A. PAGE,

Plaintiff,

vs.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security,

Defendant.

CV 12-174-M-DLC

ORDER

FILED

DEC 05 2013

Clerk, U.S. District Court
District Of Montana
Missoula

In this case, which Plaintiff David Page brought under 42 U.S.C. § 405(g) seeking judicial review of the Acting Commissioner of Social Security's decision, there are two pending motions for summary judgment. Mr. Page filed his motion (Doc. 22) on August 12, 2013, and the Commissioner filed her motion (Doc. 25) on September 26, 2013.

United States Magistrate Judge Jeremiah C. Lynch entered findings and recommendations on November 18, 2013. (Doc. 31.) The parties did not file objections and so have waived the right to de novo review. 28 U.S.C. § 636(b)(1). The findings and recommendations are instead reviewed for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm

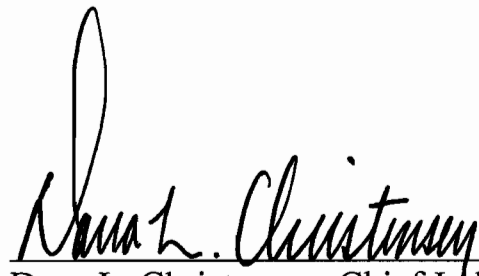
conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended that: (1) Page’s motion be denied; (2) the Commissioner’s motion be granted; and (3) the Commissioner’s decision be affirmed. At the outset, Judge Lynch correctly stated that this Court’s review for a decision of the Commissioner of Social Security is limited. Judge Lynch then addressed the five-step sequential evaluation process that the Commissioner uses to determine whether a claimant is disabled. He concluded that the Administrative Law Judge’s decision was based on substantial evidence and free of legal error. There is no clear error in his findings or recommendations.

Accordingly, IT IS ORDERED:

1. Judge Lynch’s findings and recommendations (Doc. 31) are adopted in full.
2. Page’s motion for summary judgment (Doc. 22) is DENIED, and the Commissioner’s motion for summary judgment (Doc. 25) is GRANTED.
3. The Commissioner’s decision is AFFIRMED.

Dated this 5th day of December, 2013.



Dana L. Christensen, Chief Judge
United States District Court