

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KIMBERLY NEWTON,

Plaintiff,

v.

CAROLYN W. COLVIN,
Commissioner of Social Security,

Defendant.

Case No. 2:12-cv-02186-APG-VCF

**ORDER ACCEPTING REPORT AND
RECOMMENDATION AND REMANDING
CASE TO ADMINISTRATIVE LAW
JUDGE**

On December 21, 2012, Plaintiff Kimberly Newton filed her Complaint commencing this action. Ms. Newton filed her Motion for Remand and/or Reversal [Dkt. #17] on April 19, 2013. On June 19, 2013, the Defendant filed a Motion to Remand to Social Security (Voluntary – Pursuant to Sentence Four of 42 U.S.C. § 405(g)). [Dkt. #21.] After briefing by the parties, on August 20, 2013, Magistrate Judge Ferenbach entered his Order and Report and Recommendation [Dkt. #25] recommending that (i) this case be remanded for additional administrative action pursuant to sentence four of 42 U.S.C § 405(g), (ii) final judgment be entered concluding this case, and (iii) this case be remanded to the Administrative Law Judge with direction to update the treatment evidence on Kimberly Newton's medical condition.

As set forth in Magistrate Judge Ferenbach's Report and Recommendation, pursuant to Local Rule IB 3-2, any objection to the Report and Recommendation was due within fourteen days. No objection has been filed to that Report and Recommendation. Thus, the Court is not obligated to conduct a de novo review of the Report and Recommendation. 28 U.S.C. § 636(b)(1) (requiring district courts to "make a

1 de novo determination of those portions of the report or specified proposed findings to
2 which objection is made"); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.
3 2003) (en banc) ("the district judge must review the magistrate judge's findings and
4 recommendations de novo *if objection is made*, but not otherwise" (emphasis in
5 original)). Nevertheless, this Court has conducted a de novo review of the issues set
6 forth in the Report and Recommendation. Magistrate Judge Ferenbach's Report and
7 Recommendation sets forth the proper legal analysis, and the factual basis, for the
8 decision. Therefore,

9 **IT IS HEREBY ORDERED** that the Report and Recommendation is accepted.

10 **IT IS FURTHER ORDERED** that Ms. Newton's Motion for Remand and/or
11 Reversal [Dkt. #17] and Defendant's Motion to Remand to Social Security (Voluntary –
12 Pursuant to Sentence Four of 42 U.S.C. § 405(g)) [Dkt. #21] are each **GRANTED IN**
13 **PART AND DENIED IN PART.**

14 **IT IS FURTHER ORDERED** that this case is remanded for additional
15 administrative action pursuant to sentence four of 42 U.S.C § 405(g). As part of this
16 remand, the Administrative Law Judge shall update the treatment evidence on Kimberly
17 Newton's medical condition.

18 **IT IS FURTHER ORDERED** final judgment be entered concluding this case, and
19 that the Clerk of the Court enter judgment accordingly.

20 Dated: October 7, 2013.

21 
22 _____
23 ANDREW P. GORDON
24 UNITED STATES DISTRICT JUDGE
25
26
27
28