

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PATRICIA A. REEVES,)
)
Plaintiff,)
vs.)
MICHAEL J. ASTRUE, COMMISSIONER OF)
SOCIAL SECURITY ADMINISTRATION,)
Defendant.)

Case No.: 2:13-cv-00139-GMN-PAL

ORDER

Pending before the Court is the Report and Recommendation of United States Magistrate Judge Peggy A. Leen. (ECF No. 26). Plaintiff Patricia A. Reeves filed an Objection (ECF No. 27), to which Defendant filed a Response (ECF No. 28). For the reasons discussed below, the Court will accept in full Judge Leen’s Report and Recommendation to the extent that it is not inconsistent with this Order.

I. BACKGROUND

Plaintiff brings this action against Defendant Michael Astrue in his capacity as the Commissioner of the Social Security Administration, pursuant to section 205(g) of the amended Social Security Act, 42 U.S.C. § 405(g). (Compl., ECF No. 5). Plaintiff seeks judicial review of a final decision of the Commissioner of the Social Security Administration denying her claims for Social Security Disability (“SSD”) benefits and Supplemental Security Income (“SSI”) benefits under Titles II and XVI of the Social Security Act. (Id.).

Plaintiff filed concurrent claims for SSD and SSI benefits on November 3, 2009, alleging she became disabled on December 26, 2006. (Report & Recommendation 1:16–18, ECF No. 26). The claims were denied initially and upon reconsideration. (Id. 1:18–20). A hearing before an Administrative Law Judge (“ALJ”) was held on September 21, 2011. (Id. 1:19–20). On

1 October 5, 2011, the ALJ issued an unfavorable decision, finding that Plaintiff was not disabled.
2 (Id. 1:20–21). Plaintiff timely requested Appeals Council review of the ALJ’S decision, which
3 was denied on October 31, 2012. (Id. 1:21–23).

4 This action was referred to the United States Magistrate Judge pursuant to 28 U.S.C.
5 § 636(b)(1)(B) and District of Nevada Local Rule IB 1-4. In her Report and Recommendation,
6 Judge Leen recommended that this Court enter an order granting the Cross-Motion to Affirm
7 (ECF No. 20) and denying the Motion for Remand (ECF No. 14). (ECF No. 26).

8 **II. LEGAL STANDARD**

9 A party may file specific written objections to the findings and recommendations of a
10 United States Magistrate Judge made pursuant to Local Rule IB 1-4. 28 U.S.C. § 636(b)(1)(B);
11 D. Nev. R. IB 3-2. Upon the filing of such objections, the Court must make a de novo
12 determination of those portions of the Report to which objections are made. Id. The Court may
13 accept, reject, or modify, in whole or in part, the findings or recommendations made by the
14 Magistrate Judge. 28 U.S.C. § 636(b)(1); D. Nev. IB 3-2(b).

15 **III. DISCUSSION**

16 This court may set aside the Social Security Administration Commissioner’s denial of
17 disability benefits only when the findings of the ALJ are based on legal error or are not
18 supported by substantial evidence in the record as a whole. Social Security Act, Sections 216(i),
19 223, 42 U.S.C. §§ 416(i) and 423; *Bustamante v. Massanari*, 262 F.3d 949, 953 (9th Cir. 2001).
20 “Substantial evidence means such relevant evidence as a reasonable mind might accept as
21 adequate to support a conclusion.” *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005)
22 (internal quotation marks omitted). “Where evidence is susceptible to more than one rational
23 interpretation, it is the ALJ’s conclusion that must be upheld.” Id.

24 Here, Judge Leen found that substantial evidence supports the finding that the evidence
25 submitted upon appeal of the ALJ’s decision was properly considered, and that the ALJ properly

1 assessed Plaintiff's credibility. (ECF No. 26). Having reviewed Plaintiff's objections de novo,
2 the Court finds no basis on which to reject Judge Leen's findings and recommendations.


3 **IV. CONCLUSION**

4 **IT IS HEREBY ORDERED** that the Report and Recommendation (ECF No. 26) be
5 **ACCEPTED** and **ADOPTED** in full, to the extent that it is not inconsistent with this Order.

6 **IT IS FURTHER ORDERED** that Defendant's Cross-Motion to Affirm (ECF No. 20)
7 is **GRANTED**.

8 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Remand (ECF No. 14) is
9 **DENIED**.

10 **DATED** this 6th day of October, 2014.

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15 Gloria M. Navarro, Chief Judge
16 United States District Judge
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