

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Willie Banks,
Plaintiff
v.
Nancy A. Berryhill, Acting Commissioner of
Social Security Administration,
Defendant

Case No.: 2:17-cv-02554-JAD-NJK

**Order Adopting
Report & Recommendation**

[ECF Nos. 20, 24, 26]

Plaintiff Willie Banks brought this action for the court to review the Commissioner of Social Security’s denial of his application for disability-insurance benefits under Title II of the Social Security Act. Having considered Banks’s single-sentence motion to remand¹ and the Commissioner’s cross-motion to affirm,² the magistrate judge recommends that I deny the motion to remand and grant the Commissioner’s cross-motion.³ She reasons that Banks “fails to articulate any legal analysis or point to any errors in the ALJ’s determination warranting a remand.”⁴ Indeed, the entirety of his motion states “I Willie Banks would like to file motion to remand [this case] new document from the doctor for disability benefits [sic].”⁵

Banks filed a timely objection to the report and recommendation.⁶ It’s the same length as his motion to remand and it states only “Please remand the R.R I need help I send doc report I

¹ ECF No. 20.

² ECF No. 24.

³ ECF No. 26.

⁴ *Id.* at 9.

⁵ ECF No. 20.

⁶ ECF No. 27.

1 am in middow [sic] of getting a new evaluation so please don't close my case."⁷ He includes
2 with his objection a copy of an August 2018 orthopedic evaluation,⁸ but he offers no discussion
3 of its relevance or how it justifies rejection of the magistrate judge's recommendation.

4 Even if I liberally construe this filing as a request for a remand based on new evidence,
5 Banks's effort falls short. To obtain a remand under sentence six of 42 U.S.C. § 405(g) based on
6 new evidence, a claimant must show "that there is new evidence [that] is material and that there
7 is good cause for the failure to incorporate [that] evidence into the record in a prior proceeding."
8 As Magistrate Judge Koppe accurately assessed in her report and recommendation, Banks did
9 not make that showing—and his objection gets him no closer to it.

10 Accordingly,

11 IT IS HEREBY ORDERED THAT:

- 12 • The Report and Recommendation [ECF No. 26] is **ADOPTED** in full, and Banks's
13 objection [ECF No. 27] is **OVERRULED**;
- 14 • Banks's Motion to Remand [ECF No. 20] is **DENIED**, and the Commissioner's Cross-
15 motion to Affirm [ECF No. 24] is **GRANTED**; the underlying decision is **AFFIRMED**;
- 16 • The Clerk of Court is directed to **ENTER JUDGMENT ACCORDINGLY** and **CLOSE**
17 **THIS CASE**.

18 Dated: February 14, 2019

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22 U.S. District Judge Jennifer A. Dorsey
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26 ⁷ *Id.*

27 ⁸ ECF No. 27-1.
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