

FILED
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11:45 am, Jan 24, 2020

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JOSEPH MALONEY,

Plaintiff,

-against-

ANDREW M. SAUL, Acting Commissioner
of Social Security,

Defendant.
-----X

ADOPTION ORDER

2:16-cv-03899 (ADS) (GRB)

SPATT, District Judge.

On July 13, 2016 plaintiff Joseph Maloney (the “Plaintiff”), commenced this appeal pursuant to the Social Security Act, 42 U.S.C. § 405 et seq. (the “Act”), challenging a final determination by the defendant, Andrew M. Saul, the Acting Commissioner of the Social Security Administration (the “Defendant” or the “Commissioner”), that he is ineligible to receive Social Security disability insurance benefits.

On January 12, 2018, the Court entered an order granting the Plaintiff’s motion for a judgment on the pleadings pursuant to Rule 12(c), and remanding the Plaintiff’s claim for further administrative proceedings.

On August 9, 2019, the Plaintiff moved for an award of attorney’s fees pursuant to 42 U.S.C. § 406(b).

On October 17, 2019, the Court referred the matter to United States Magistrate Judge Gary R. Brown for a recommendation as to whether the motion for attorney’s fees should be granted, and if so, what the award should be.

On January 7, 2020, Judge Brown issued a Report & Recommendation (“R&R”) that the Court deny the Plaintiff’s motion as untimely.

Both parties have informed the Court that they have no objections to the R&R.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. See *Coburn v. P.N. Fin.*, No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at *1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety. The Court denies the Plaintiff's Section 406(b) motion for attorney's fees.

SO ORDERED.

Dated: Central Islip, New York
January 24, 2020

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge