

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

---

CONNELLY ANDREW SCHNEIDER,

Plaintiff,

v.

3:15-CV-0590  
(GTS/WBC)

CAROLYN W. COLVIN,  
Commissioner of Social Security,

Defendant.

---

APPEARANCES:

BINDER & BINDER  
Counsel for Plaintiff  
60 E. 42<sup>nd</sup> Street, Suite 520  
New York, NY 10165

U.S. SOCIAL SECURITY ADMIN.  
OFFICE OF REG'L GEN. COUNSEL  
– REGION II  
Counsel for Defendant  
26 Federal Plaza, Room 3904  
New York, NY 10278

OF COUNSEL:

CHARLES E. BINDER, ESQ.

BENIL ABRAHAM, ESQ.

GLENN T. SUDDABY, Chief United States District Judge

**DECISION and ORDER**

Currently before the Court, in this Social Security action filed by Connelly Andrew Schneider (“Plaintiff”) against the Commissioner of Social Security (“Defendant” or “the Commissioner”) pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3), are (1) the Report and Recommendation of United States Magistrate Judge William B. Mitchell Carter, recommending that Plaintiff’s motion for judgment on the pleadings be denied, and that Defendant’s motion for judgment on the pleadings be granted, and (2) Plaintiff’s objections to the Report and

Recommendation. (Dkt. Nos. 15, 16.) For the reasons set forth below, the Report and Recommendation is accepted and adopted in its entirety.

## **I. PLAINTIFF'S OBJECTIONS**

Generally, Plaintiff makes three arguments in objection to Magistrate Judge Carter's Report and Recommendation. First, Plaintiff argues that Magistrate Judge Carter erred in finding that the ALJ properly weighed the medical opinion evidence (because the ALJ improperly adopted only certain portions of the opinion from treating physician, Dr. Garber, and improperly relied on the contradictory opinion from one-time consultative examiner, Dr. Ganesh). (Dkt. No. 16 at 2-5.) Second, Plaintiff argues that Magistrate Judge Carter erred in finding that the ALJ properly evaluated Plaintiff's credibility (because the ALJ's finding was not supported by substantial evidence in the ALJ's analysis). (*Id.* at 2, 5-8.) Third, and finally, Plaintiff argues that Magistrate Judge Carter erred in finding that the ALJ properly relied on the Medical-Vocational Guidelines at step five (because the ALJ was required to obtain vocational expert testimony based on Plaintiff's nonexertional limitations). (*Id.* at 2, 9-10).

## **II. APPLICABLE LEGAL STANDARD**

A district court reviewing a magistrate judge's Report and Recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Parties may raise objections to the magistrate judge's Report and Recommendation, but they must be "specific written objections," and must be submitted "[w]ithin 14 days after being served with a copy of the recommended disposition." Fed. R. Civ. P. 72(b)(2); *accord*, 28 U.S.C. § 636(b)(1)(C). "A judge of the court shall make a *de novo* determination of those portions of the [Report and Recommendation] . . . to which objection is

made.” 28 U.S.C. § 636(b)(1)(C); *accord*, Fed. R. Civ. P. 72(b)(2). “Where, however, an objecting party makes only conclusory or general objections, or simply reiterates his original arguments, the Court reviews the Report and Recommendation only for clear error.” *Caldwell v. Crosset*, 9-CV-0576, 2010 WL 2346330, at \* 1 (N.D.N.Y. June 9, 2010) (quoting *Farid v. Bouey*, 554 F. Supp. 2d 301, 307 [N.D.N.Y. 2008]) (internal quotation marks omitted).

### III. ANALYSIS

The Court finds that Plaintiff’s objections simply reiterate arguments presented in his initial brief. (*Compare* Dkt. No. 16 *with* Dkt. No. 10.) Therefore, the Court reviews the Magistrate Judge Carter’s Report and Recommendation for clear error only. After carefully reviewing the relevant filings in this action, including Magistrate Judge Carter’s thorough Report and Recommendation, the Court can find no clear error in the Report and Recommendation. (Dkt. No. 15.) Magistrate Judge Carter employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. (*Id.*)

**ACCORDINGLY**, it is

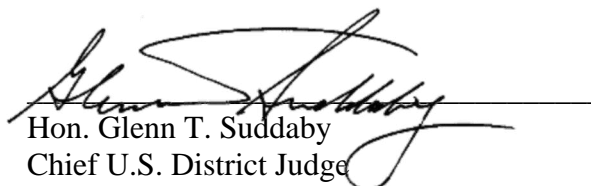
**ORDERED** that Magistrate Judge Carter’s Report and Recommendation (Dkt. No. 15) is

**ACCEPTED** and **ADOPTED** in its entirety; and it is further

**ORDERED** that the Commissioner’s determination is **AFFIRMED**; and it is further

**ORDERED** that Plaintiff’s Complaint (Dkt. No. 1) is **DISMISSED**.

Dated: September 19, 2016  
Syracuse, New York

  
Hon. Glenn T. Suddaby  
Chief U.S. District Judge