

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

**VIRGINIA REINHARDT (now known as
VIRGINIA FURTADO),**

Plaintiff,

v.

**08-CV-01159
(TJM/VEB)**

**MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

**THOMAS J. McAVOY,
Senior United States District Judge**

DECISION & ORDER

This action brought pursuant to the Social Security Act (“the Act”), 42 U.S.C. §§ 405(g), 1383(c)(3), was referred by this Court to the Hon. Victor E. Bianchini, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule N.D.N.Y. 72.3(c). The Report and Recommendation dated December 30, 2009 recommends that Defendant’s Motion for Judgment on the Pleadings be denied, Plaintiff’s Motion for Judgment on the Pleadings be granted in part, and the Commissioner’s decision denying disability benefits be remanded for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). See Rep. & Rec. [dkt. # 20]. Defendant has filed objections to the Report and Recommendation, see Objections Memorandum [dkt. # 21], Plaintiff has filed a response to Defendant’s objections, see Plaintiff’s Response [dkt. # 23], and Defendant has filed a reply thereto. See Def. Reply

Memorandum. [dkt. # 25].

When objections to a magistrate judge's Report and Recommendation are lodged, the Court reviews the record *de novo*. See 28 U.S.C. § 636(b)(1). After this review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1)(C).

Having reviewed Magistrate Judge Bianchini's Report and Recommendation, and having considered Defendant's objections, the Court adopts Judge Bianchini's Report-Recommendation for the reasons stated therein.

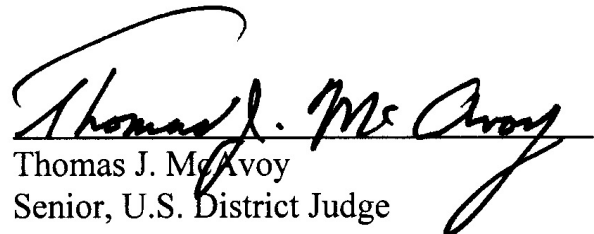
Accordingly, it is hereby **ORDERED** that:

Plaintiff's Motion for Judgment on the Pleadings is **GRANTED IN PART** and the Commissioner's decision denying disability benefits is **REMANDED** for further proceedings in accordance with Judge Bianchini's Report and Recommendation and pursuant to sentence four of 42 U.S.C. § 405(g).

Defendant's Cross-Motion for Judgment on the Pleadings is **DENIED**.

IT IS SO ORDERED.

DATED: March 24, 2010


Thomas J. McAvoy
Senior, U.S. District Judge