

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

KIMBERLY CLARK,

Plaintiff,

v.

5:14-CV-73

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

DECISION & ORDER

Thomas J. McAvoy, Senior District Judge.

This action, brought pursuant to 28 U.S.C. § 636(b), seeks review of the final decision of the Commissioner of Social Security denying Plaintiff Social Security disability benefits. The matter was referred to Thérèse Wiley Dancks, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Pursuant to Northern District of New York General Order No. 8, the Court proceeds as if both parties had accompanied their briefs with a motion for judgment on the pleadings.

In the Report-Recommendation, dated January 30, 2015, Magistrate Judge Danks recommends that the Commissioner's decision be affirmed, the Commissioner's motion for judgment on the pleadings be granted and the Complaint dismissed. See dk. # 17.

Plaintiff filed timely objections to the Report-Recommendation pursuant to 28 U.S.C. § 636(b)(1), arguing that the decision of the Administrative Law Judge was not supported by substantial evidence and the case should be remanded. When objections to

a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which the objection is made." See 28 U.S.C. §636(b)(1). After such a 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." Id.

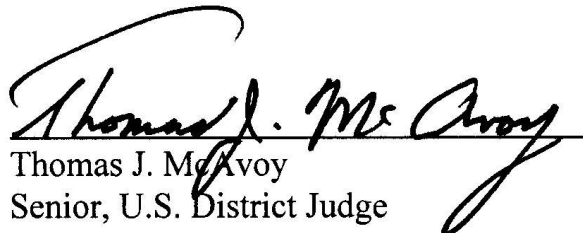
Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff's objections, this Court has determined to accept the recommendation of Magistrate Judge Dancks for the reasons stated in the Report-Recommendation.

It is therefore ordered that:

- (1) Plaintiff's Objections, dkt. # 18, to the Report-Recommendation of Magistrate Judge Dancks, dkt. # 17, are hereby OVERRULED;
- (2) The Report-Recommendation is hereby ADOPTED;
- (3) The Commissioner's motion for judgment on the pleadings is hereby GRANTED;
- (4) The Plaintiff's motion for judgment on the pleadings is hereby DENIED; and
- (5) The Complaint, dkt. # 1, is hereby DISMISSED.

IT IS SO ORDERED.

Dated: March 28, 2015


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