

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

WENDY LOU WYTRWA,

Plaintiff,

v.

5:15-CV-0286 (BKS/ATB)

**CAROLYN W. COLVIN, ACTING
COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

Appearances:

Howard D. Olinsky
Olinsky Law Group
One Park Place
300 S. State Street, Ste. 420
Syracuse, NY 13202
For Plaintiff

Richard S. Hartunian, United States Attorney
David Brown, Special Assistant United States Attorney
Social Security Administration
Office of Regional General Counsel
Region II
26 Federal Plaza - Room 3904
New York, NY 10278
For Defendant

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

INTRODUCTION

Plaintiff Wendy Lou Wytrwa filed this action under 42 U.S.C. §§ 405(g) and 1383(c)(3) seeking review of Commissioner of Social Security's denial of her applications for Supplemental Security Income Benefits and Disability Insurance Benefits. Dkt. No. 1. This matter was referred

to United States Magistrate Judge Andrew T. Baxter for a Report-Recommendation. Dkt. No. 3; Local Rule 73.2(d). On April 28, 2018, after reviewing the parties' briefs, Dkt. Nos. 11, 14, and the Administrative Transcript, Dkt. No. 9, Magistrate Judge Baxter issued a Report-Recommendation recommending that the Commissioner's decision be affirmed and plaintiff's complaint be dismissed. Dkt. No. 15, p. 23. Magistrate Judge Baxter advised the parties that under 28 U.S.C. § 636(b)(1), they had "14 days within which to file written objections" to the Report-Recommendation and that "failure to object to th[e] report within 14 days will preclude appellate review." Dkt. No. 15, p. 23 (citing *Roldan v. Racette*, 984 F.2d 85 (2d Cir. 1993); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e)).

DISCUSSION

The Court reviews *de novo* those portions of the Magistrate Judge's findings and recommendations that have been properly preserved with a specific objection. *Petersen v. Astrue*, 2 F. Supp. 3d 223, 228-29 (N.D.N.Y. 2012); 28 U.S.C. § 636(b)(1)(C). Findings and recommendations as to which there was no properly preserved objection are reviewed for clear error. *Id.*

Neither of the parties has raised any objection to Magistrate Judge Baxter's Report-Recommendation. The Court has reviewed the Report-Recommendation for clear error and found none. Accordingly, it is

ORDERED that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 15) is **ADOPTED** in all respects; and it is further

ORDERED that the Commissioner's decision is **AFFIRMED**; and it is further

ORDERED that the Complaint (Dkt. No. 1) is **DISMISSED with prejudice**; and it is further

ORDERED that the Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: May 19, 2016

A handwritten signature in black ink that reads "Brenda K. Sannes". The signature is written in a cursive style with a horizontal line underneath the name.

Brenda K. Sannes
U.S. District Judge