

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MAUREEN S.,

Plaintiff,

-v-

5:23-CV-1088

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

APPEARANCES:

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SOCIAL SECURITY
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DAVID N. HURD
United States District Judge

OF COUNSEL:

HOWARD D. OLINSKY, ESQ.

GEOFFREY M. PETERS, ESQ.
Special Ass't U.S. Attorney

ORDER ON REPORT & RECOMMENDATION

On August 28, 2023, plaintiff Maureen S.¹ (“plaintiff”) filed this civil action seeking review of the final decision of defendant Commissioner of Social Security (“Commissioner”) denying her application for Disability Insurance Benefits (“DIB”) under the Social Security Act (the “Act”). Dkt. No. 1.

Because plaintiff did not consent to the direct exercise of Magistrate Judge jurisdiction, Dkt. No. 3, the matter was referred to U.S. Magistrate Judge Miroslav Lovric for a Report & Recommendation (“R&R”), Dkt. No. 4.

Thereafter, the Commissioner filed a certified copy of the Administrative Record, Dkt. No. 8, and the parties briefed the matter in accordance with General Order 18, which provides that a district court appeal from the Commissioner’s administrative denial of benefits is treated as if the parties have filed cross-motions for judgment on the pleadings, Dkt. Nos. 11, 16, 17.

On October 10, 2024, Judge Lovric advised by R&R that plaintiff’s motion should be granted, the Commissioner’s motion should be denied, and the Commissioner’s final decision should be reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g). Dkt. No. 18.

¹ In accordance with a May 1, 2018 memorandum issued by the Judicial Conference’s Committee on Court Administration and Case Management and adopted as local practice in this District, only the first name and last initial of plaintiff will be mentioned in this opinion.

Neither party has lodged objections, and the time period in which to do so has expired. *See* Dkt. No. 18. Upon review for clear error, Judge Lovric's R&R is accepted and will be adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

ORDERED that

1. The Report & Recommendation (Dkt. No. 18) is ACCEPTED;
2. Plaintiff's motion is GRANTED;
3. The Commissioner's motion is DENIED;
4. The Commissioner's final decision is VACATED; and
5. This matter is REMANDED for further administrative proceedings

pursuant to sentence four of 42 U.S.C. § 405(g).

The Clerk of the Court is directed to terminate the pending motion, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.

Dated: October 25, 2024
Utica, New York.


David N. Hurd
U.S. District Judge