

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JAMES WOOD,

Plaintiff,

v.

6:15-CV-1030  
(GTS/WBC)

CAROLYN W. COLVIN  
Commissioner of Social Security,

Defendant.

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APPEARANCES:

OF COUNSEL:

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Counsel for Plaintiff  
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Rome, NY 13440

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– REGION II  
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JASON P. PECK, ESQ.

GLENN T. SUDDABY, Chief United States District Judge

**DECISION and ORDER**

Currently before the Court, in this Social Security action filed by James Wood (“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. 16,17.) For the reasons set forth below, the Report and Recommendation is accepted and adopted in its entirety.

## **I. PLAINTIFF’S OBJECTIONS**

Plaintiff essentially argues that the Court should reject Magistrate Judge Carter’s Report and Recommendation that the ALJ properly relied on the opinion of a consultative examiner.

(Dkt. No. 17 at 1-5.) Plaintiff argues that, before assigning his case to the ALJ, the Social Security Administration failed to follow its own regulations by obtaining an opinion of Plaintiff’s abilities and limitations from a consultative examiner without attempting to obtain any information necessary to complete the record from Plaintiff’s treating psychologist. (*Id.*)

Plaintiff further argues that Magistrate Judge Carter’s analysis “essentially asserts that following the regulations is optional with regard to the hiring of consultative examiners.” (*Id.* at 1.)

## **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 objections largely reiterate arguments presented in Plaintiff's initial brief. (*Compare* Dkt. No. 17 *with* Dkt. No. 13.) To the extent that Plaintiff raises specific objections to Magistrate Judge Carter's Report and Recommendation, the Court reviews these portions of the Report and Recommendation *de novo*. After carefully reviewing the relevant filings in this action, including Magistrate Judge Carter's thorough Report and Recommendation, the Court agrees with Magistrate Judge Carter that the Commissioner did not err by obtaining an opinion from a consultative examiner, and the ALJ properly evaluated and relied on the same. (Dkt. No. 16.)

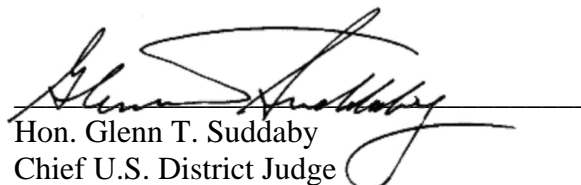
**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Carter's Report and Recommendation (Dkt. No. 16) 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: December 5, 2016  
Syracuse, New York

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