

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

MICHAEL BASZTO,

Plaintiff,

vs.

**No. 08-CV-958
(TJM/VEB)**

**MICHAEL J. ASTRUE
Commissioner of Social Security,**

Defendant.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

This matter brought pursuant to the Social Security Act, 42 U.S.C. §§ 405(g), 1383(c)(3), seeking review of a final decision of the Commissioner of Social Security denying Plaintiff's application for disability insurance benefits ("DIB"), was referred to the Hon. Victor E. Bianchini, United States Magistrate Judge for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The Report-Recommendation filed on January 26, 2010 recommended that the Commissioner's decision denying disability benefits be affirmed and found that the ALJ's conclusions were supported by substantial evidence. Objections were filed.

"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 objection is made." McConnell v. Astrue,

2008 WL 833968, at *2 (N.D.N.Y. March 27, 2008); 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 and adopt the recommendation of Magistrate Judge Bianchini for the reasons stated in the Report-Recommendation.

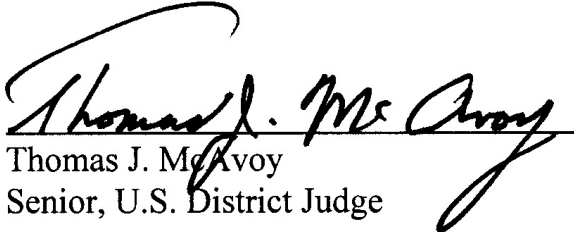
It is therefore

ORDERED that Defendants' Motion for Judgement on the Pleadings is **GRANTED**.

The Complaint is DISMISSED in its entirety.

IT IS SO ORDERED.

Dated: March 31, 2010


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