

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RAYMOND F. DERONDE,

Plaintiff,

7:11-CV-0998
(GTS/ESH)

v.

MICHAEL J. ASTRUE, Comm'r of Soc. Sec.,

Defendant.

APPEARANCES:

OF COUNSEL:

OLINSKY LAW GROUP

Counsel for Plaintiff
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4th Floor, Suite 520
Syracuse, New York 13202

KAREN S. SOUTHWICK, ESQ.

SOCIAL SECURITY ADMINISTRATION
OFFICE OF REG'L GEN. COUNSEL-REGION II

Counsel for Defendant
26 Federal Plaza, Room 3904
New York, New York 10278

REBECCA H. ESTELLE, ESQ.

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

The above-captioned matter comes to this Court following a Report-Recommendation by United States Magistrate Judge Earl S. Hines, filed on February 11, 2013, recommending that (1) the Commissioner's motion for judgment on the pleadings be denied, (2) Plaintiff's motion for judgment on the pleadings be granted, (3) the Commissioner's decision denying disability benefits be reversed, and (4) the case be remanded to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). (Dkt. No. 18.) Objections to the Report-Recommendation have not been filed and the time in which to do so has expired. (*See generally*

Docket Sheet.) After carefully reviewing all of the papers herein, including Magistrate Judge Hines' thorough Report-Recommendation, the Court can find no error in the Report-Recommendation, clear or otherwise. As a result, the Report-Recommendation is accepted and adopted in its entirety; the Commissioner's motion for judgment on the pleadings is denied; Plaintiff's motion for judgment on the pleadings is granted; the Commissioner's decision denying disability benefits is reversed; and the case is remanded to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

ACCORDINGLY, it is

ORDERED that Magistrate Judge Hines' Report-Recommendation (Dkt. No. 18) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED the Commissioner's motion for judgment on the pleadings (Dkt. No. 14) is **DENIED**; and it is further

ORDERED that Plaintiff's motion for judgment on the pleadings (Dkt. No. 12) is **GRANTED**; and it is further

ORDERED that the Commissioner's decision denying disability benefits is **REVERSED**; and it is further

ORDERED that this matter is **REMANDED** to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g), including consideration of the following:

- (a) clarification of Plaintiff's functional abilities and/or an independent medical examination to determine the same;
- (b) review of Plaintiff's credibility in accordance with SSR 96-7p;
- (c) reevaluation of Plaintiff's residual functional capacity in accordance with an updated

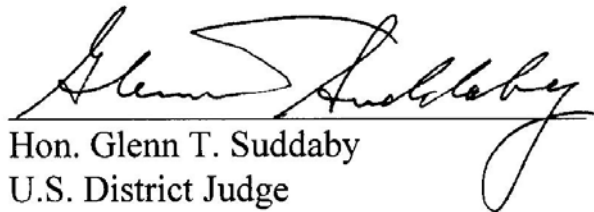
report of his functional abilities;

(d) explanation of the connection between medical improvement, if any, and any adjusted RFC;

(e) description of the extent to which Plaintiff's occupational base is eroded by nonexertional impairments, if any; and

(f) if desirable or necessary, testimony of either a vocational expert or other similar evidence regarding the existence of jobs in the national economy for an individual with Plaintiff's limitations.

Dated: March 7, 2013
Syracuse, New York



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