

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

APRIL BECHARD,

Plaintiff,

-vs-

Case No. 8:13-CV-1472 (GTS/WBC)

COMMISSIONER OF SOCIAL SECURITY

Defendant.

APPEARANCES:

ANDERSON LAMB & ASSOCIATES, PC
Counsel for Plaintiff
P.O. Box 1624
Burlington, VT 05402-1624

U.S. SOCIAL SECURITY ADMIN.
OFFICE OF REG'L GEN. COUNSEL –
REGION II
Counsel for Defendant
26 Federal Plaza, Room 3904
New York, NY 10278

OF COUNSEL:

ARTHUR P. ANDERSON, ESQ.

ELIZABETH D. ROTHSTEIN, ESQ.

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this Social Security action filed by April Bechard (“Plaintiff”) against the Commissioner of Social Security (“Defendant” or “the Commissioner”) pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3), is the Report and Recommendation of United States Magistrate Judge William B. Mitchell Carter, filed September 17, 2015, recommending that Plaintiff’s motion for judgment on the pleadings be granted in part and denied in part, and that Defendant’s motion for judgment on the pleadings be granted in part and denied in part. (Dkt. No. 21.) Objections to the Report and Recommendation have not been filed.

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). When no objection is made to a report and recommendation, the Court subjects that report and recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; *see also* *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks and citations omitted).

ACCORDINGLY, it is

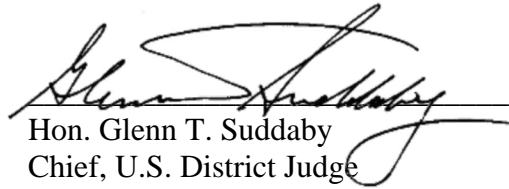
ORDERED that Magistrate Judge Carter's Report and Recommendation (Dkt. No. 21) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Plaintiff's motion for judgment on the pleadings (Dkt. No. 16) is **GRANTED in part and DENIED in part**; and it is further

ORDERED that Defendant's motion for judgment on the pleadings (Dkt. No. 19) is **GRANTED in part and DENIED in part**; and it is further

ORDERED that the matter is **REMANDED** to the Commissioner of Social Security for further proceedings under sentence four of 42 U.S.C. § 405(g) and consistent with the specific instructions outlined in the Report and Recommendation.

Dated: October 14, 2015
Syracuse, New York



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