

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

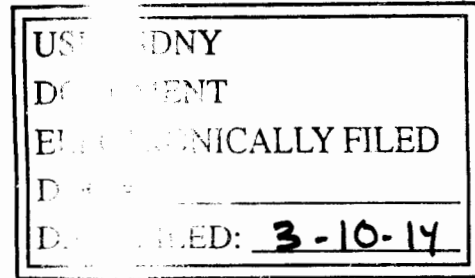
DAVID MICHAELS,

Plaintiff,

-v-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.



No. 12 Civ. 9213 (RJS) (GWG)

ORDER ADOPTING  
REPORT AND RECOMMENDATIONRICHARD J. SULLIVAN, District Judge:

On December 18, 2012, Plaintiff David Michaels filed this action pursuant to 42 U.S.C. § 405(g) to obtain judicial review of the final decision of Defendant Commissioner of Social Security Administration (“Commissioner”) denying his claims for Disability Insurance under the Social Security Act. (Doc. No. 1.) On March 20, 2013, the Court referred this matter to the Honorable Gabriel W. Gorenstein, Magistrate Judge, for a Report and Recommendation. (Doc. No. 4.) On June 5, 2013, and November 13, 2013, respectively, Plaintiff and Defendant each moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. (Doc. Nos. 10 & 16.)

On February 19, 2014, Judge Gorenstein issued a Report and Recommendation (the “Report”), recommending that (1) Plaintiff’s motion be denied, and (2) Defendant’s motion be granted. In the Report, Judge Gorenstein advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). No party has filed objections to the Report, and the time to do so has expired.

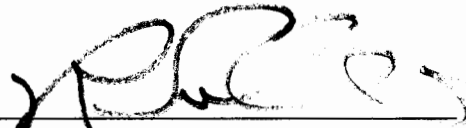
When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Gusky v. Astrue*, 954 F. Supp. 2d 180,

184 (W.D.N.Y. 2013). Having reviewed Judge Gorenstein's thorough and well-written forty-four page Report, the Court finds that the reasoning and conclusions set forth therein are not facially erroneous, and agrees that "given the evidence of Michaels' active lifestyle, together with the testimony of medical expert Dr. Winkler and the other generally consistent medical advice, there was substantial evidence in the record to support the ALJ's finding that Michaels could perform light work." (Report at 43.) Accordingly, the Court adopts the Report in its entirety. For the foregoing reasons, IT IS HEREBY ORDERED that Plaintiff's motion for judgment on the pleadings is DENIED, Defendant's motion for judgment on the pleadings is GRANTED, and the Commissioner's denial of benefits is AFFIRMED.

The Clerk of the Court is respectfully directed to terminate the motions pending at docket numbers 10 and 16, and to close this case.

SO ORDERED.

DATED: March 10, 2014  
New York, New York



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RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE