

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 9/25/14
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JOSEPHINE CRUZ,

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13cv1267

Plaintiff,

:

MEMORANDUM & ORDER

-against-

:

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

:

:

Defendant.

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WILLIAM H. PAULEY III, District Judge:

Plaintiff Josephine Cruz seeks judicial review under 42 U.S.C. § 405(g) of a final decision of the Commissioner of the Social Security Administration denying her application for supplemental security income benefits. Both parties moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. On August 29, 2014, Magistrate Judge Frank Maas issued a report and recommendation (the “Report”) recommending that this Court grant the Commissioner’s motion and deny Cruz’s motion.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations” of a magistrate judge. 28 U.S.C. § 636(b)(1). This Court reviews those parts of the Report to which objections are made *de novo*, and the remaining parts for “clear error on the face of the record.” 28 U.S.C. § 636(b)(1); Pauta v. Aena Mech. Corp., No. 11cv6374, 2014 WL 3855025, at *1 (S.D.N.Y. July 25, 2014). Objections that reiterate arguments considered and rejected by the magistrate are reviewed for clear error. See, e.g., O’Callaghan v. N.Y. Stock Exchange, No. 12cv7247 (AJN), 2013 WL 3984887, at *1 (S.D.N.Y. Aug. 2, 2013); Fabricio v. Artus, No. 06cv2049 (WHP) 2009 WL 928039, at *1 (S.D.N.Y. Mar. 12, 2009).

On September 16, 2014, Cruz objected to the Report on two grounds. First, Cruz asserts that the magistrate judge failed to consider Dr. Camille's opinion that Cruz "had not developed adequate coping skills to cope with stressors . . . and would be unable to work for 12 months." (Objections to Rep. & Rec., dated Sept. 16, 2014 ("Objections") at 1-2 (ECF No. 20). Cruz relied on Dr. Camille's opinion in her motion for judgment on the pleadings. (See Mem. in Supp. of Pl's Cross-Mot. and Opp. of Def't's Mot. for Judgment on the Pleadings at 14 ("Cruz's Mem.") (ECF No. 18).) Magistrate Judge Maas considered that Dr. Camille's opinion, quoted from it, and found it unpersuasive. (See, e.g., Report at 14, 22, 39-40.)

Second, Cruz contends that the magistrate judge failed to cite Dr. Bougakov's opinion that examination results were consistent with psychiatric problems and may interfere significantly with Cruz's ability to function on a daily basis. (Objections at 2.) But Dr. Bougakov's opinion was also raised in her motion. (Cruz's Mem. at 14.) And Magistrate Judge Mass considered that evidence and rejected it. (See, e.g., Report at 16, 22, 40.) Cruz's objections to the Report lack merit and simply reiterate earlier arguments.

Finding no error in the Report, clear or otherwise, this Court adopts Magistrate Judge Frank Maas's well-reasoned Report and Recommendation. For substantially the same reasons as those set forth in the Report, the Commissioner's motion for judgment on the pleadings is granted and Cruz's motion for judgment on the pleadings is denied. The Clerk of Court is directed to terminate all pending motions and mark this case closed.

Dated: September 25, 2014
New York, New York

SO ORDERED:


WILLIAM H. PAULEY III
U.S.D.J.

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