

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HECTOR SANCHEZ,

Plaintiff,

- v. -

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

USDC SDNY
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ORDER

15 Civ. 4914 (PGG) (JCF)

PAUL G. GARDEPHE, U.S.D.J.:

Pro se Plaintiff Hector Sanchez filed this action on June 22, 2015, pursuant to Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), seeking review of a final decision of the Commissioner of the Social Security Administration denying him Supplemental Security Income (“SSI”) benefits on the ground that he was not disabled. (Dkt. No. 2) On July 16, 2015, this action was referred to Magistrate Judge James C. Francis for a Report and Recommendation (“R & R”). (Dkt. No. 5) On December 21, 2015, the Commissioner moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. (Dkt. No. 13) Plaintiff did not file a response to the Commissioner’s motion.

On August 2, 2016, Magistrate Judge Francis issued an R & R recommending that this Court grant the Commissioner’s motion for judgment on the pleadings and dismiss the Complaint. (Dkt. No. 16) The R & R recites the requirement that the parties must file objections within fourteen days of service, pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, and that a “[f]ailure to file timely objections will preclude appellate review.” (Id. at 35); see 28 U.S.C. § 636(b)(1) (“[w]ithin fourteen days after being served with a copy [of a magistrate judge’s report and recommendation], any party may serve and file written

objections to such proposed findings and recommendations”); Fed. R. Civ. P. 72(b)(2) (“[w]ithin 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations”).

The R & R was mailed to Plaintiff and to the Government on August 2, 2016. (Id. at 36) No objections to the R&R have been filed by either side.

This Court “may accept, reject, or modify in whole or in part” findings or recommendations issued by a magistrate judge. 28 U.S.C. § 636(b)(1). “The district judge evaluating a magistrate judge’s recommendation may adopt those portions of the recommendation, without further review, where no specific objection is made, as long as they are not clearly erroneous.” Gilmore v. Comm’r of Soc. Sec., No. 09 Civ. 6241 (RMB) (FM), 2011 WL 611826, at *1 (S.D.N.Y. Feb. 18, 2011) (quoting Chimarev v. TD Waterhouse Investor Servs., Inc., 280 F. Supp. 2d 208, 212 (S.D.N.Y. 2003)). Because no objections have been filed, this Court will review the R & R for clear error.

Having conducted a review of the 36-page R & R, the Court finds that the R & R is not clearly erroneous and, in fact, is extremely thorough, well-reasoned, and entirely in conformity with the law.

Judge Francis concluded that “[s]ubstantial evidence supports the ALJ’s decision that Mr. Sanchez was not disabled,” and that, in particular, given Plaintiff’s age, education, work experience, and residual functional capacity, he is capable of performing jobs “that exist[] in significant numbers in the national economy.” (R & R (Dkt. No. 16) at 25, 35) This Court agrees with Judge Francis’s assessment.

Accordingly, the R & R’s recommendations are adopted in their entirety, and the Commissioner’s motion for judgment on the pleadings will be granted.

CONCLUSION

For the reasons stated above, the Commissioner's motion for judgment on the pleadings is granted. The Clerk of Court is respectfully directed to terminate the motion (Dkt. No. 13), close this case, and mail a copy of this order to pro se Plaintiff Hector Sanchez, 3463 3rd Avenue, Apt. 10A, Bronx, New York 10456. Because the parties did not object to the R & R adopted herein, appellate review of this Order is precluded. Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992).

Dated: New York, New York
March 13, 2017

SO ORDERED.



Paul G. Gardephe
United States District Judge