

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>9/19/16</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELIZABETH SOTO,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

15-CV-8207 (VEC) (KNF)

ORDER ADOPTING REPORT &
RECOMMENDATION

VALERIE CAPRONI, United States District Judge:

Pro se Plaintiff Elizabeth Soto commenced this action seeking review of the denial of her application for disability insurance benefits (“DIB”) and for supplemental security income (“SSI”). On November 19, 2015, this Court referred the action to Magistrate Judge Kevin Nathaniel Fox. Dkt. 6. On March 8, 2016, the Commissioner of Social Security moved for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c), arguing that the Commissioner’s decision that Plaintiff was not disabled within the meaning of the Social Security Act, 42 U.S.C. §§ 423 *et seq.*, was legally correct and supported by substantial evidence. Dkt. 11. Plaintiff has not opposed Defendant’s motion. On August 17, 2016, Magistrate Judge Fox issued a Report and Recommendation (“R&R”) recommending that Defendant’s motion be granted. Dkt. 14. The R & R notified Plaintiff that, pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), her deadline to file an objection to the R & R was fourteen days from the date of service of the R&R. Magistrate Judge Fox informed the Court that the R&R was mailed to Plaintiff on September 1, 2016; no objections were filed by the September 15, 2016 deadline.

DISCUSSION

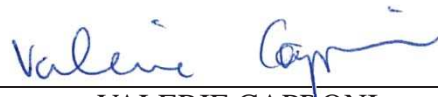
In reviewing a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b) (1)(C). When no objections are made to a magistrate judge’s report, a district court may adopt the report so long as “there is no clear error on the face of the record.” *Phillips v. Reed Grp., Ltd.*, 955 F. Supp. 2d 201, 211 (S.D.N.Y. 2013) (citation omitted). Failure to file timely objections to the report of the magistrate judge constitutes a waiver of those objections in the district court and on later appeal to the United States Court of Appeals. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (*per curiam*).

CONCLUSION

Upon careful review of the R & R, the Court finds no clear error and agrees with Magistrate Judge Fox’s findings. Accordingly, the R&R is adopted in full, and Defendant’s motion for judgment on the pleadings is GRANTED. The Clerk of the Court is respectfully directed to close the open motion at docket entry 10, to terminate the case, and to mail a copy of this order to Plaintiff.

SO ORDERED.

Dated: September 19, 2016
New York, New York



VALERIE CAPRONI
United States District Judge