

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHAKIRA J. LORA,

Plaintiff,

- v. -

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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ORDER

16 Civ. 3916 (PGG) (RLE)

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

Pro se Plaintiff Shakira Lora filed this action on May 24, 2016, 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 her Supplemental Security Income (“SSI”) benefits on the ground that she was not disabled. (Dkt. No. 2) On June 8, 2016, this action was referred to Magistrate Judge Ronald L. Ellis for a Report and Recommendation (“R & R”). (Dkt. No. 7) On November 14, 2016, the Commissioner moved for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c). (Dkt. No. 12) Plaintiff did not file a response to the Commissioner’s motion.

On September 12, 2017, Judge Ellis issued an R & R recommending that this Court grant the Commissioner’s motion for judgment on the pleadings and dismiss the Complaint. (Dkt. No. 15) 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 the “[f]ailure to file timely objections shall constitute a waiver of those objections both in the District Court and on later appeal to the United States Court of Appeals.” (Id. at 29) See also 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"). 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 29-page R & R, the Court finds that the R & R is not clearly erroneous and, in fact, is thorough, well-reasoned, and entirely in conformity with the law.

Judge Ellis concluded that (1) the administrative law judge ("ALJ") properly weighed the opinions of Plaintiff's treating physicians and properly assessed Plaintiff's own credibility, and (2) substantial evidence supports the ALJ's determination that, while Plaintiff has certain "non-exertional limitations," she is capable of performing jobs that "exist[] in significant numbers in the national economy." (R & R (Dkt. No. 15) at 19-27) Judge Ellis further concluded that the additional medical documents provided by Plaintiff in the Complaint did not

warrant a remand to the Commissioner for further consideration. (See id. at 27-29) This Court agrees with Judge Ellis's assessment.

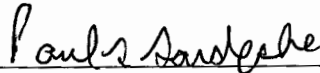
Accordingly, the R & R's recommendations are adopted in their entirety, and the Commissioner's motion for judgment on the pleadings will be granted.

CONCLUSION

For the reasons stated above, the Commissioner's motion for judgment on the pleadings is granted. The Clerk of the Court is directed to terminate the motion (Dkt. No. 12), close this case, and mail a copy of this order to pro se Plaintiff Shakira Lora, 785 Courtlandt Avenue, Apt. 13C, Bronx, New York 10451. 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
September 28, 2017

SO ORDERED.



Paul G. Gardephe
United States District Judge