

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
YANINA D. CALDERON,

Plaintiff,

16-cv-9002 (PKC)

-against-

ORDER ADOPTING
REPORT & RECOMMENDATION

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
-----X

CASTEL, U.S.D.J.

On November 18, 2016, Yanina D. Calderon, proceeding pro se, filed this action seeking review of the final decision of the Commissioner of Social Security (the “Commissioner”), which denied Calderon supplemental security income and disability insurance benefits. (Docket # 2.) This Court referred her complaint to then-Magistrate Judge James C. Francis to hear and report, and the referral was later reassigned to Magistrate Judge Robert W. Lehrburger. (Docket # 10.) The Commissioner moved for judgment on the pleadings pursuant to Rule 12(c), Fed. R. Civ. P., and the plaintiff made no filings in opposition. (Docket # 13.) On March 5, 2018, Magistrate Judge Lehrburger filed a 42-page Report and Recommendation (“R&R”) recommending that the undersigned deny the Commissioner’s motion and that the case be remanded to the Commissioner for further proceedings. (Docket # 18.)


In reviewing an R&R, 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). The R&R stated that the parties had fourteen days to file any objections. (R&R at 42.) The fourteen-day window has elapsed, and no party has objected or requested an extension of the

time to object. The parties received clear notice of the consequences of the failure to object, and waived the right to object to the R&R or obtain further judicial review thereof. When no timely objection has been made to a report and recommendation, ““a district court need only satisfy itself that there is no clear error on the face of the record.”” Arthur v. Goord, 2008 WL 482866, at *3 (S.D.N.Y. Feb. 21, 2008) (Cote, J.) (quoting Figueroa v. Riverbay Corp., 2006 WL 3804581, at *1 (S.D.N.Y. Dec. 22, 2006) (Crotty, J.)); see also Thomas v. Arn, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.”).

The Court has reviewed the R&R and concludes that it is free of clear error. Magistrate Judge Lehrburger thoroughly reviewed the administrative record and identified seven separate bases for remanding this case to the Commissioner for further proceedings, including the ALJ’s failure to develop a sufficient record and the use of incorrect legal standards. The Court concludes that the R&R’s recommendations are supported by extensive and detailed discussion of the record and relevant law. Having received no objections to the R&R, the Court adopts its recommendations in their entirety.

The Commissioner’s motion for judgment on the pleadings is DENIED. (Docket # 13) This case is REMANDED pursuant to 42 U.S.C. § 405(g) for further proceedings consistent with the R&R.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
March 23, 2018