

Urbanak v. Berryhill Doc. 27
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: 8/7/18

PATRICIA ANNE URBANAK,

Plaintiff,

-against-

17 Civ. 5515 (CM)(HBP)

NANCY A. BERRYHILL,
ACTING COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

DECISION AND ORDER ACCEPTING REPORT AND
RECOMMENDATION OF MAGISTRATE JUDGE PITMAN AND
ADOPTING THE REPORT AS THE OPINION OF THE COURT

McMahon, CJ:

I have carefully reviewed the Report and Recommendation of The Hon. Henry B. Pitman, U.S.M.J., in which the learned Magistrate Judge concludes that the motion of the Commissioner to uphold her finding that Plaintiff is capable of performing light work and denying her request for benefits be granted, and that the cross-motion of Plaintiff for remand to the Commissioner be denied.

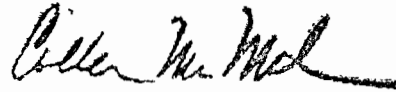
I have also reviewed the Objections filed by counsel for Plaintiff to the Report and Recommendation.

The Report is thoughtful and thorough. It not only applies the correct legal standard, but it anticipates and responds persuasively to each of the very few objections raised by counsel for Plaintiff. It does not “cherry pick” evidence; it does not fail to give appropriate deference to treating physicians’ opinions (with much greater deference appropriately given to opinions that were rendered after the plaintiff had her back surgery, which is the date on which her disability commenced); it appropriately refuses to conflate the standards for ascertaining workers compensation “disability” and Social Security “disability” – indeed, the Report is the model of a proper review of an administrative record. There can be no doubt that the Commissioner’s determination is supported by substantial evidence.

I therefore accept the report and adopt it as the opinion of the court. The Commissioner's motion is granted; the Plaintiff's cross-motion is denied; and the complaint is dismissed.

The Clerk of Court is directed to remove the motions at Docket #15 and 22 from the court's list of open motions, and to close this case.

Dated: August 7, 2018



Chief Judge

BY ECF TO ALL COUNSEL
BY EMAIL TO THE HON. HENRY B. PITMAN