UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ERICA R.M. LEGALL, Plaintiff, v. CAROLYN W. COLVIN, Acting Commissioner of Social Security, Defendant.	:	**ORDER ADOPTING REPORT AND RECOMMENDATION** 13 CV 1426 (VB)

Briccetti, J.:

Before the Court is Magistrate Judge Lisa M. Smith's Report and Recommendation ("R&R"), dated August 13, 2014 (Doc. #35), on defendant's unopposed motion for judgment on the pleadings pursuant to Rule 12(c). (Doc. #23). Citing deficiencies in the Administrative Law Judge's determination of plaintiff's residual functional capacity, Judge Smith recommended that the motion be denied and the case remanded for further administrative proceedings.

The Court presumes familiarity with the factual and procedural background of this case.

For the following reasons, the Court (i) adopts the R&R as the opinion of the Court, (ii) denies defendant's motion, and (iii) remands this case for further administrative proceedings consistent with the R&R, pursuant to 42 U.S.C. § 405(g), sentence four.

A district court reviewing a magistrate judge's report and recommendation "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). Parties may raise objections to the magistrate judge's report and recommendation, but they must be "specific[,] written," and submitted within 14 days after being served with a copy of the recommended disposition. Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1).

Insofar as a report and recommendation deals with a dispositive motion, a district court must conduct a de novo review of those portions of the report or specified proposed findings or recommendations to which timely objections are made. 28 U.S.C. § 636(b)(1)(C). The district court may adopt those portions of a report and recommendation to which no timely objections have been made, provided no clear error is apparent from the face of the record. Lewis v. Zon, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). The clearly erroneous standard also applies when a party makes only conclusory or general objections, or simply reiterates his original arguments. Ortiz v. Barkley, 558 F. Supp. 2d 444, 451 (S.D.N.Y. 2008).

Neither party objected to Judge Smith's thorough and well-reasoned R&R.

The Court has reviewed the R&R and finds no error, clear or otherwise.

CONCLUSION

Accordingly, the R&R is adopted in its entirety as the opinion of the Court.

Defendant's motion for judgment on the pleadings is DENIED.

The case is REMANDED for further administrative proceedings consistent with the R&R, pursuant to 42 U.S.C. § 405(g), sentence four.

The Clerk is instructed to enter Judgment accordingly and close this case.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

Dated: September 9, 2014
White Plains, NY

SO ORDERED:

Vincent L. Briccetti
United States District Judge