

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BRITTANY L. PRIES,

Plaintiff,

DECISION AND ORDER

No. 1:15-cv-00078

-vs-

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

This matter comes before the Court following a Report and Recommendation (Docket No. 15) filed on August 7, 2017, by the Honorable Leslie G. Foschio, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72(b) and (c) of the Western District of New York. In his Report and Recommendation ("R&R"), Judge Foschio recommended that Defendant's motion for judgment on the pleadings be granted, and that Plaintiff's motion for judgment on the pleadings be denied.

The parties were given until August 21, 2017, to file objections to the R&R. To date, no objections have been filed, and neither party has sought an extension of time in which to file objections.

When reviewing a magistrate judge's report and recommendation, a district court is required to "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made[,]" 28 U.S.C. § 636(b),

and "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge[,]" *id.* Where no "specific written objection" is made to portions of the magistrate judge's report, the district court may adopt those portions, "as long as the factual and legal bases supporting the findings and conclusions set forth in those sections are not clearly erroneous or contrary to law." *Eisenberg v. New England Motor Freight, Inc.*, 564 F. Supp.2d 224, 226 (S.D.N.Y. 2008) (citing Fed. R. Civ. P. 72(b); see also *Thomas v. Arn*, 474 U.S. 140, 149 (1985)). The district court is not required to review any portion of a magistrate judge's report that is not the subject of an objection. *Eisenberg*, 564 F. Supp.2d at 227 (citing *Thomas*, 474 U.S. at 149).

As noted above, no objections were made to any portion of the R&R, which the Court has reviewed and in which the Court finds no error. Accordingly, the Court accepts all of the findings and recommendations therein.

Accordingly, it is hereby

ORDERED that the R&R (Docket No. 15) is adopted in its entirety; and it is further

ORDERED that Defendant's motion for judgment on the pleadings (Docket No. 13) is granted; and it is further

ORDERED that Plaintiff's motion for judgment on the pleadings (Docket No. 7) is denied.

The Clerk of Court is directed to close this case.

IT IS SO ORDERED.

s/Michael A. Telesca

HONORABLE MICHAEL A. TELESCA
United States District Judge

DATED: August 28, 2017
Rochester, New York