UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DAVID J. KESTER,

Plaintiff,

-vs-

No. 1:15-CV-00945 (MAT)
DECISION AND ORDER

NANCY A. BERRYHILL, Acting Commissioner of Social Security,

Defendant.

Represented by counsel, David J. Kester("plaintiff") brings this action pursuant to Titles II and XVI of the Social Security Act, seeking review of the final decision of the Acting Commissioner of Social Security ("the Commissioner") denying his applications for supplemental security income and disability insurance benefits. The Court has jurisdiction over this matter pursuant to 42 U.S.C. § 405(g). The matter is before the Court on the parties' cross motions for judgment on the pleadings. The parties' motions were referred to Magistrate Judge Jeremiah J. McCarthy for consideration of the factual and legal issues presented, and to prepare and file a Report and Recommendation ("R&R") containing a recommended disposition of the issues raised.

By R&R dated October 30, 2017, Judge McCarthy recommended that the case be remanded for further administrative proceedings, for the reasons described therein. Docket No. 20. Both parties were notified that they had 14 days within which to file objections; however, neither party has filed an objection.

Within fourteen days after a party has been served with a copy of a magistrate judge's report and recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b). "Where no objection is made to a report and recommendation, or the parties make frivolous, conclusive, or general objections, only 'clear error' review is required by the district court." *Teixeria v. St. Jude Med. S.C., Inc.*, 193 F. Supp. 3d 218, 222 (W.D.N.Y. 2016). "After conducting the appropriate review, the district judge may 'accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.'" *Id*. (quoting 28 U.S.C. § 636(b)). No objections having been filed, the Court has reviewed the R&R for clear error and finds none.

CONCLUSION

Accordingly, the R&R (Docket No. 20) is approved and adopted in its entirety. The Commissioner's motion for judgment on the pleadings (Docket No. 16) is denied, and plaintiff's motion for judgment on the pleadings (Docket No. 9) is granted to the extent that the case is remanded for further administrative proceedings. The Clerk of the Court is directed to close this case.

ALL OF THE ABOVE IS SO ORDERED.

S/Michael A. Telesca
HON. MICHAEL A. TELESCA
United States District Judge

Dated: November 16, 2017
Rochester, New York.