UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Sarah Torres o/b/o J.E.D.L.T.,

Plaintiff,

v. 16-CV-745
Decision and Order

Nancy A. Berryhill,

Defendant.

On September 15, 2016, the plaintiff commenced this action, seeking review of a final determination by the Commissioner of Social Security. Docket Item 1. On October 28, 2016, this Court referred this case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 6. On April 5, 2017, the plaintiff moved for judgment on the pleadings or, in the alternative, to remand for further proceedings, Docket Item 13; on June 9, 2017, the defendant responded and cross-moved for judgment on the pleadings, Docket Item 14; and on August 18, 2017, the plaintiff replied, Docket Item 18. On May 15, 2018, Judge Scott issued a Report and Recommendation ("R&R") finding that the plaintiff's motion should be granted and that the defendant's motion should be denied. Docket Item 19. The parties did not object to the R&R, and the time to do so now has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's

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recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Scott's R&R. Based on that review and the absence of any objections, the Court accepts and adopts Judge Scott's recommendation to grant the plaintiff's motion and deny the defendant's motion.

For the reasons stated above and in the Report and Recommendation, the plaintiff's motion for judgment on the pleadings or, in the alternative, to remand for further proceedings, Docket Item 13, is GRANTED; the defendant's cross-motion for judgment on the pleadings, Docket Item 14, is DENIED. The decision of the Commissioner is VACATED; and the matter is REMANDED for further administrative proceedings, consistent with the R&R. The Clerk of the Court shall close the file.

SO ORDERED.

Dated: June 26, 2018
Buffalo, New York

s/Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE