

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

CASSANDRA MAYO,
Plaintiff,

CASE NO. 1:11-CV-2748

vs.

OPINION & ORDER
[Resolving Doc. Nos. [1](#) & [14](#)]

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Plaintiff Cassandra Mayo challenges the final decision of the Commissioner of Social Security, denying the Plaintiff’s claim for Supplemental Security Income under Title XVI of the Social Security Act, 42 U.S.C. § 1381 *et seq.* [Doc. [1](#).] Specifically, Plaintiff Mayo asserts three assignments of error, all revolving around the argument that the Administrative Law Judge (“ALJ”) failed to properly evaluate and weigh the medical source opinions.

This matter was referred to Magistrate Judge McHargh pursuant to Local Rule 72.2. On January 20, 2010, the case was reassigned to Magistrate Judge Burke. On November 5, 2012, Magistrate Judge Burke issued a Report and Recommendation that recommended that this case be remanded because the ALJ failed to consider Mayo’s depression in assessing her Residual Functional Capacity (“RFC”). [Doc. [14](#).]

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within

Case No. 1:11-CV-2748
Gwin, J.

fourteen days of service. Id.; Fed. R. Civ. P. 72(b)(2). Failure to object within this time waives a party's right to appeal the district court's judgment. Thomas v. Arn, 474 U.S. 140, 145 (1985); United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Absent objection, a district court may adopt the magistrate judge's report without review. See Thomas, 474 U.S. at 149.

In this case, neither party has objected to the Magistrate Judge's recommendation and the Defendant has specifically noted that it does not object. [Doc. 16.] Moreover, having conducted its own review of the record and the parties' briefs in this case, the Court agrees with the conclusions of Magistrate Judge Burke.

Accordingly, the Court **ADOPTS** in whole Magistrate Judge Burke's Report and Recommendation and incorporates it fully herein by reference, and **REVERSES** and **REMANDS** the decision of the Commissioner of Social Security.

Dated: December 7, 2012

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE