

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBERT SMITH,)	CASE NO. 1:13 CV 2357
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	<u>ORDER ADOPTING</u>
)	<u>MAGISTRATE’S REPORT AND</u>
)	<u>RECOMMENDATION</u>
COMMISSIONER OF SOCIAL SECURITY,)	
)	
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Kenneth S. McHargh. The Report and Recommendation (ECF # 17), issued on September 16, 2014, is hereby ADOPTED by this Court. Plaintiff sought review of the Commissioner’s decision denying his application for Supplemental Security Income benefits under Title XVI of the Social Security Act, 42 U.S.C. § 1381, *et seq.* The Magistrate found that the Administrative Law Judge’s (“ALJ’s”) determination was based on the correct legal standards and that the findings were supported by substantial evidence in the record.

The Plaintiff timely filed objections to the Report and Recommendation. (ECF #18). He contends that the ALJ did not adequately assess Plaintiff’s limitations stemming from his “severe antisocial personality disorder.” In particular, Plaintiff claims that the ALJ should have included

a limitation regarding his alleged inability to respond appropriately to supervision and co-workers. The Court has reviewed *de novo* those portions of the Magistrate Judge's Report and Recommendation to which objection has been made. *See* FED. R. CIV. P. 72(b). The Court finds Magistrate Judge McHargh's Report and Recommendation to be thorough, well-written, well-supported, and correct. The Court finds that Plaintiff's objections raise no arguments (factual or legal) that have not been fully addressed by the Magistrate's Report and Recommendation.

In addition to the supporting evidence cited by the Magistrate, the following evidence also supports the ALJ's decision to withhold limitations relating to co-workers and supervisors. The state agency physician Mathew Paris, Psy.D.¹ did opine that Plaintiff had a history of antisocial personality disorder, but did not call it severe. He rated Plaintiff's overall psychological functioning, including his ability to get along with coworkers and to respond appropriately to criticism from supervisors, as moderate. The record also show that Dr. Paris said that Plaintiff's antisocial personality disorder was longstanding, evidenced by behavior dating back to criminal activity more than twenty years ago. However, Plaintiff indicated the last twenty years, prior to the onset of his physical illness, he had been able to hold several different jobs, that he had no problem with authority figures (over and above his general dislike for people), and that his impatience with people actually stemmed from the pain he suffered from migraine headaches, and not to any general anti-social disorder. (ECF #14 at 36-37, 44). Further, Nancy Borgeson, the vocational expert who testified at the hearing indicated that even if a person limited to sedentary or certain light duty work was unable to respond appropriately to supervisors and coworkers this would not necessarily change

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In some parts of the record the Dr.'s name is spelled "Paris" and in some it is spelled "Paras."

the assessment of employability. She opined that if this inability to respond appropriately reached a threshold of 50% of the time, it could prevent them from sustaining full-time work. (ECF # 14 at 51). There was no evidence in the record that Plaintiff met this threshold. In fact, the evidence cited by the AJL and the Magistrate indicate that Plaintiff was able to work with people when he was employed even though dealing with people in general may have frustrated him.

The Magistrate's Report and Recommendation correctly addresses all of the Petitioner's claims; the ALJ's decision is supported by substantial evidence in the record; and, the Petitioner's objections are unwarranted. This Court, therefore, adopts the Magistrate's Report in its entirety. The Commissioner's decision denying Plaintiff's application for benefits is adopted. The case is dismissed with prejudice. IT IS SO ORDERED.

/s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: October 3, 2014