

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

MICHAEL J. FAZIO,	)	CASE NO. 1: 17 CV 842
	)	
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 William H. Baughman, Jr.. The Report and Recommendation (ECF # 23), issued on June 14, 2018, is hereby ADOPTED by this Court, without objection.

Plaintiff sought review of the Commissioner's adverse decision on his application for disability insurance benefits and supplemental security income. The administrative law judge ("ALJ") determined that Mr. Fazio's conditions did not meet the requirements of Listing 14.09, and the Commissioner found no disability. Mr. Fazio argues that this decision was not based on substantial evidence, and that his treating physician's opinion was not afforded the deference required under the treating physician rule articulated in *Wilson v. Comm'r of Soc. Sec.*, 378 F.3d

541 (6<sup>th</sup> Cir. 2004). The Magistrate Judge found that the finding of no disability was not supported by substantial evidence and recommended this Court reverse the finding of no disability at Step Three and remand for further administrative proceedings. On remand, the Magistrate also recommended that the Court order the ALJ to properly analyze Mr. Fazio's mental impairments at Step Two, including providing proper support for refusing to afford the treating physician's opinion controlling weight in the analysis.

A notice was filed indicating that no objections would be filed to the Magistrate's report on behalf of the Commissioner. (ECF #24). Plaintiff also has not filed any timely objections to the report. The Court has reviewed *de novo* the Report and Recommendation, *see Ohio Citizen Action v. City of Seven Hills*, 35 F. Supp. 2d 575, 577 (N.D. Ohio 1999), and ADOPTS the Magistrate Judge's Report and Recommendation in its entirety. The Commissioner's decision denying Mr. Fazio disability insurance and supplemental security income is REVERSED and REMANDED for further administrative proceedings consistent with the directives in the Report and Recommendation, as adopted by this Court. IT IS SO ORDERED.

DATED: July 2, 2018

  
DONALD C. NUGENT  
United States District Judge