

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

BRIAN McCAULEY,	)	CASE NO. 1:17CV1675
	)	
Petitioner,	)	JUDGE DONALD C. NUGENT
	)	
v.	)	MAGISTRATE JUDGE
	)	DAVID A. RUIZ
COMMISSIONER OF SOCIAL	)	
SECURITY ADMINISTRATION,	)	<u>ORDER ADOPTING</u>
	)	<u>REPORT AND</u>
Respondent.	)	<u>RECOMMENDATION</u>

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge David A. Ruiz (ECF #11). On August 10, 2017, Petitioner, Brian McCauley, filed his Complaint (ECF #1) challenging the final decision of the Commissioner of Social Security Administration denying his claim for Disability Insurance Benefits. Pursuant to Local Rule 72.2(b), the case was referred to Magistrate Judge Ruiz.

**Procedural History**

On July 5, 2018, the Magistrate Judge issued his Report and Recommendation. The Magistrate Judge found the Commissioner’s decision denying Disability Insurance Benefits to be supported by substantial evidence and recommends that the Commissioner’s decision be AFFIRMED. Objections to the Report and Recommendation were to be filed within 14 days of service. The Petitioner did not file an objection to the Report and Recommendation.

### **Standard of Review for a Magistrate Judge's Report and Recommendations**

The applicable standard of review of a magistrate judge's report and recommendation depends upon whether objections were made to that report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case *de novo*. FED R.

CIV. P. 72(b) states:

The district judge must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

The text of Rule 72(b)(3) addresses only the review of portions of reports to which timely objections have been made; it does not indicate the appropriate standard of review for portions of the report to which no objections have properly been made. The Advisory Committee on Civil Rules commented on the standard of review stating "when no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72 advisory committee's notes (citations omitted).


The U.S. Supreme Court stated: "It does not appear that Congress intended to require district court review of magistrate judge's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to these findings." *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Here, the Petitioner did not file a response objecting to the magistrate judge's Report and Recommendation. Accordingly, this Court reviews the Report and Recommendation for a finding of clear error on the face of the record.

### **Conclusion**

The Court has carefully reviewed the Report and Recommendation and agrees with the findings set forth therein. The Report and Recommendation of Magistrate Judge Ruiz (ECF #11)

is ADOPTED. The decision of the Commissioner denying Petitioner's request for Disability Insurance Benefits is AFFIRMED. Petitioner's request that the case be reversed and remanded (ECF #1) is DENIED.

IT IS SO ORDERED.

  
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DONALD C. NUGENT  
United States District Judge

DATED: September 17, 2018