

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Kurtis Lee Rammel,

Case No. 3:12-cv-02078

Plaintiff

v.

MEMORANDUM OPINION
AND ORDER

Commissioner of Social Security,

Defendant

Pending before me is Magistrate Judge Vernelis K. Armstrong's Report and Recommendation (Doc. No. 20) and Defendant's response thereto. In her Report, Magistrate Judge Armstrong found remand appropriate because the ALJ improperly evaluated the testimony of Drs. O'Neill and Gaerke under the treating physician rule and insufficiently determined whether Rammel could perform other work given his age, education, and past work experience. (Id. at 25, 27). On July 8, 2013, the Commissioner indicated she would not be filing an objection to the R & R. (Doc. No. 21).

Under the relevant statute:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1). In this case, the fourteen day period has elapsed and as the Commissioner indicated, no objections have been filed.

The failure to file written objections to the Magistrate Judge's report and recommendation constitutes a waiver of a determination by the district court of an issue covered in the report.

Thomas v. Arn, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see also United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

After review of Magistrate Judge Armstrong's Report and Recommendation, I hereby adopt and affirm the Report and Recommendation in full as the Order of the Court. The Commissioner's decision regarding Rammel's applications for SSI and DIB are reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g); instructions consistent with the R & R (Doc. No. 20).

So Ordered.

s/ Jeffrey J. Helmick _____
United States District Judge