

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Carla D. Caley,)	CASE NO. 5:11 CV 1146
)	
Plaintiff,)	JUDGE PATRICIA A. GAUGHAN
)	
Vs.)	
)	
Michael J. Astrue,)	<u>Memorandum of Opinion and Order</u>
Commissioner of Social Security,)	
)	
Defendant.)	

INTRODUCTION

This matter is before the Court upon the Report and Recommendation (“R&R”) of Magistrate Judge Nancy A. Vecchiarelli (Doc. 15) recommending that the Court deny the Commissioner’s Motion to Dismiss, or in the Alternative, Motion for Summary Judgment. The government filed a notice indicating that it will not be filing objections to the R&R. Upon review, the R&R is ACCEPTED and the Commissioner’s motion is DENIED.

STANDARD OF REVIEW

When objections are made to a Magistrate Judge’s Report and Recommendation, the district court reviews the case *de novo*. Federal Rule of Civil Procedure 72(b) provides in

pertinent part:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

As stated in the Advisory Committee Notes, "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." In *Thomas v. Arn*, 474 U.S. 140, 150 (1985), the Court held, "It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings."

DECISION

This Court, having reviewed the R&R and finding no clear error, hereby accepts the Magistrate Judge's R&R. In accordance with that recommendation, the Court hereby DENIES the Commissioner's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment for the reasons stated by the Magistrate Judge in the R&R, which is incorporated herein by reference.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge

Dated: 11/14/11