

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

KAYLA MOODY,)	Case No.: 5:16 CV 1168
)	
Plaintiff)	
)	
v.)	JUDGE SOLOMON OLIVER, JR.
)	
COMMISSIONER OF SOCIAL SECURITY,)	
)	
Defendant)	<u>ORDER</u>

The Acting Commissioner of Social Security (the “Commissioner”) denied Plaintiff Kayla Moody’s (“Plaintiff”) claim for Supplemental Security Income under Titles XVI of the Social Security Act, 42 U.S.C. §§ 405(g), 423, 1381 *et seq.* Plaintiff sought judicial review of the Commissioner’s decision, arguing that a Sentence Six remand is required for consideration of her post-hearing treatment notes as new material evidence of the severity of her right hand tremor.

The court referred the case to Magistrate Judge Thomas M. Parker pursuant to Local Rule 72.2(b) for preparation of a Report and Recommendation (“R&R”). Both parties filed briefs on the merits. On May 8, 2017, Judge Parker filed his R&R (ECF No. 15), recommending that the court affirm the Commissioner’s final decision and deny Plaintiff’s request for a Sentence Six remand. Judge Parker reasoned that Plaintiff’s post-hearing treatment notes were not “new” because they were “largely cumulative” and, further, that they were not “material” because Plaintiff could not “establish a reasonable probability that the ALJ would have reached a different decision if he had considered the evidence.” (R&R 9–13 (quoting *Sizemore v. Secretary of H.H.S.*, 865 F.2d 709, 711

(6th Cir. 1988).) In addition, Judge Parker reasoned that “even if the ALJ erred in not considering Moody’s tremor to constitute a severe impairment, that error would not be subject to reversal because the ALJ considered all impairments (including the tremor) at Step Four.” (*Id.* at 14.)

As of the date of this Order, no objections have been filed to the R&R, thereby waiving the right to appeal the Magistrate Judge’s recommendation. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

After careful review of Judge Parker’s R&R and all other relevant documents in the record, the court finds no clear error. *See* Fed. R. Civ. P. 72(b) advisory committee’s note; *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require the 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.”). Thus, the court adopts as its own Judge Parker’s R&R. (ECF No. 15.) In the alternative, the court finds that, even upon *de novo* review, Judge Parker’s findings are well taken, and adopts as its own his R&R for the reasons stated in the R&R. The court hereby affirms the Commissioner’s final decision.

IT IS SO ORDERED.

/S/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

July 28 017