

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

DANIEL STARCHER,)	CASE NO. 5:16-cv-2222
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	MAGISTRATE JUDGE
)	THOMAS M. PARKER
COMMISSIONER OF SOCIAL SECURITY,)	
)	<u>MEMORANDUM OPINION</u>
Defendant)	

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Thomas Parker. (Docket #16). On September 6, 2016, Plaintiff Daniel Starcher, filed his Complaint (Docket #1) challenging the final decision of the Commissioner of Social Security denying his claim for Disability Insurance Benefits and Supplemental Security Income. Pursuant to Local Rule 72.2(b), the case was referred to Magistrate Judge Parker.

On June 2, 2017, the Magistrate Judge issued his Report and Recommendation. The Magistrate Judge found the Administrative Law Judge's (ALJ) decision was not supported by substantial evidence and that the final decision of the Commissioner be vacated and the case remanded for further proceedings. No objections were filed.

Standard of Review for a Magistrate Judge's Report and Recommendation

The applicable district court standard of review for 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) provides this standard of review. It states, in pertinent part, the following:

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.

The text of Rule 72(b) addresses only the review of reports to which objections have been made; it does not indicate the appropriate standard of review for those reports to which no objections have been properly made. The Advisory Committee on Civil Rules commented on a district court's review of *unopposed* reports by magistrate judges. In regard to subsection (b) of Rule 72, the advisory committee stated: "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 (citation omitted).

The U.S. Supreme Court stated in *Thomas v. Arn*, 474 U.S. 140, 150 (1985): "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."

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 Parker (Docket #16) is ADOPTED. The decision of the Commissioner denying Plaintiff's request for Disability Insurance Benefits and Social Security Income is VACATED and the case is REMANDED for further proceedings.

IT IS SO ORDERED.

/s/Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: July 25, 2017