

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

CHRISTOPHER PAUL SWOGGER,)	CASE NO. 5:17CV 348
)	
Plaintiff,)	
)	JUDGE DONALD C. NUGENT
vs.)	
)	
)	
NANCY A. BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION,)	MEMORANDUM OPINION
)	
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge George J. Limbert. (ECF #18). On February 21, 2017, Petitioner, Christopher Paul Swogger, filed his Complaint (ECF #1) challenging the final decision of the Commissioner of Social Security denying his application for Disability Insurance Benefits and Supplemental Security Income. Pursuant to Local Rule 72.2(b), the case was referred to Magistrate Judge Limbert.

On March 2, 2018, Magistrate Judge Limbert issued his Report and Recommendation finding that the Commissioner's decision denying Disability Insurance Benefits and Supplemental Security Income was supported by substantial evidence and recommending that the Commissioner's decision be affirmed. Objections to the Report and Recommendation were to be filed within 14 days of service. Plaintiff filed a response to the Report and Recommendation on March 6, 2018, stating that Plaintiff will not be filing objections to the Report and Recommendation. (ECF #19)

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

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).

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 Limbert (ECF #18) is ADOPTED. The decision of the Commissioner denying Plaintiff's request for Disability Insurance Benefits and Social Security Income is AFFIRMED. Plaintiff's request that the case be reversed and

remanded (ECF #1) is DENIED.

IT IS SO ORDERED



DONALD C. NUGENT
United States District Court

DATED: March 9, 2018