

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DAVID BURLINGAME,)	CASE NO. 5:18CV417
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
COMMISSIONER OF SOCIAL)	ORDER ADOPTING MAGISTRATE’S
SECURITY,)	REPORT AND RECOMMENDATION
)	
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge James R. Knepp, II, which was issued on December 20, 2018. (ECF #16). The Defendant, Nancy A. Berryhill, Acting Commissioner of Social Security, (hereafter “Commissioner”), indicated that she will not file Objections to the Report and Recommendation. (ECF #17). Therefore, the Report and Recommendation is hereby ADOPTED.

Plaintiff, David L. Burlingame, (hereafter “Mr. Burlingame”), sought review of the Commissioner’s decision denying his application for disability insurance benefits (“DIB”) and supplemental security income (“SSI”). (ECF #1). Mr. Burlingame was born in 1970 and began treatment for physical issues in April of 2013 and began treatment for mental health issues in August of 2013. Despite the medical records and opinions presented, the Administrative Law Judge (“ALJ”) decided that Mr. Burlingame was not disabled, and that based upon his residual functional capacity (“RFC”), he could be employed. (See ECF #16, p. 11).

In the Report and Recommendation, Magistrate Judge Knepp recommends that this decision be reversed and remanded, finding that the ALJ failed to give appropriate weight to the

treatment records and medical opinion letter of Mr. Burlingame's treating physician, Dr. Laikos. Magistrate Knepp also stated that upon remand, the Commissioner may not ignore medical evidence from Dr. Laikos, but rather, "the commissioner is required to assess the RFC based on 'all relevant evidence in [the] case record.'" (ECF #16, p. 17, *citing* 20 C.F.R. §§ 404.1545(a)(1) and 416.945(a)(1)).§

For these reasons, Magistrate Judge Knepp found that the Commissioner's decision denying DIB and SSI was not supported by substantial evidence and recommended that the decision be REVERSED and REMANDED for further proceedings pursuant to Sentence Four of 42 U.S.C. § 405(g).

This Court has reviewed *de novo* the Report and Recommendation, see *Ohio Citizen Action v. City of Seven Hills*, 35 F.Supp.2d 575, 577 (N.D.Ohio 1999), and ADOPTS the Report and Recommendation in its entirety.

IT IS SO ORDERED.


DONALD C. NUGENT
United States District Court

Date: February 7, 2019