UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

JACOB SCOTT BALLARD,

Case No. 5:18-cv-1878

Plaintiff,

.

VS.

OPINION & ORDER [Resolving Doc. 18]

COMMISSIONER OF SOCIAL SECURITY,

:

Defendant.

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

In early 2016, Plaintiff Jason Scott Ballard applied for Social Security disability benefits.¹ The Social Security Administration denied Ballard's application initially and upon reconsideration.² After a hearing, an Administrative Law Judge ("ALJ") also denied Ballard's request.³ The Social Security Appeals Council declined to review,⁴ making the ALJ's determination the agency's final decision.

Plaintiff Ballard now challenges this disability benefits denial.⁵ Magistrate Judge

Knepp issued a report and recommendation ("R&R") recommending that the Court remand
the case to the ALJ.⁶ Neither party objects.⁷

¹ Doc. 10 at 205.

² *Id.* at 136 (initial denial), 146 (denial upon reconsideration).

³ Id. at 17.

⁴ Id. at 6.

⁵ Doc. 1.

⁶ Doc. 18.

⁷ Doc. 19.

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The Federal Magistrates Act only requires the Court to review *objected-to* portions of an R&R.⁸ When there are no objections, the Court may adopt the R&R without examination. Because neither party objects, the Court adopts the R&R.

Also, the Court agrees with Magistrate Judge Knepp's reasoning and conclusions. In determining disability, an ALJ is generally required to give a treating physician's opinion controlling weight.⁹ If the ALJ discounts the opinion, he must give "good reasons" for doing so.¹⁰

Plaintiff Ballard's treating physician opined that Ballard's dizziness and headaches would restrict his ability to lift objects.¹¹ However, the ALJ gave this opinion less than controlling weight, concluding that Ballard's dizziness lacked documentation and the recommended limitations were undercut by Ballard's daily activities.¹²

These reasons are either untrue or unhelpfully unspecific. Ballard's medical records are—in fact—riddled with reports of dizziness.¹³ And, as Judge Knepp correctly notes, the ALJ failed to identify which of Ballard's life activities conflicted with Dr. Peiffer's opinion.¹⁴ The "good reasons" standard requires more.

⁸ Thomas v. Arn, 474 U.S. 140, 145 (1985). See 28 U.S.C. § 636(b)(1).

⁹ E.g., Rogers v. Comm'r of Soc. Sec., 486 F.3d 234, 242 (6th Cir. 2007). Although the federal regulations regarding the treating physician rule changed in March 27, 2017, they do not impact Plaintiff's January 2016 claim.

 $^{^{10}}$ Id.; 20 C.F.R § 416.927(c)(2) ("We will always give good reasons in our notice of determination or decision for the weight we give your treating source's medical opinion.").

¹¹ Doc. 10 at 1756.

¹² Id. at 27.

¹³ E.g., id. at 723, 742, 916, 1220.

¹⁴ *Id.* at 27.

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Thus, the Court **ADOPTS** the R&R, **VACATES** the ALJ's decision, and **REMANDS** the case to the ALJ for further proceedings.

IT IS SO ORDERED.

Dated: August 15, 2019

S. James S. Gwin
JAMES S. GWIN

UNITED STATES DISTRICT JUDGE