

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

|                                |   |                               |
|--------------------------------|---|-------------------------------|
| LISA BRAUNINGER,<br>Plaintiff, | : | Case No. 1:16-cv-926          |
|                                | : |                               |
|                                | : | Judge Timothy S. Black        |
| vs.                            | : |                               |
|                                | : | Magistrate Judge Stephanie K. |
| COMMISSIONER OF SOCIAL         | : | Bowman                        |
| SECURITY,                      | : |                               |
| Defendant.                     | : |                               |
|                                | : |                               |
|                                | : |                               |
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**DECISION AND ENTRY  
ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 13),  
OVERRULING PLAINTIFF’S OBJECTIONS (Doc. 14),  
AND TERMINATING THIS CASE IN THIS COURT**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court, and, on November 3, 2017, submitted a Report and Recommendation. (Doc. 13). Plaintiff timely filed objections. (“Objections,” Doc. 14).<sup>1</sup> Defendant filed a response to the Objections. (Doc. 15).

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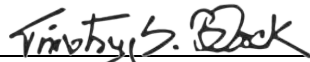
<sup>1</sup> Plaintiff’s Objections are not well-taken. First, the Objections restate Plaintiff’s argument that the Administrative Law Judge (“ALJ”) erred in determining that Plaintiff’s low back condition did not meet or equal the requirements of Listing 1.04(A). (Doc. 14 at 2-6). The Court agrees with the Magistrate Judge that the ALJ’s determination that Plaintiff does not have an impairment that meets or equals Listing 1.04(A) is supported by substantial evidence. (See Doc. 13 at 6-15). Second, the Objections restate Plaintiff’s argument that the ALJ improperly weighed evidence in formulating Plaintiff’s residual functioning capacity. (Doc. 14 at 6-9). The Court agrees with the Magistrate Judge that the ALJ properly determined that the testimony of Plaintiff’s treating physicians that Plaintiff would need to lie down periodically during the day was not “well supported” by the record, and accordingly, the ALJ did not err in refusing to give such testimony controlling weight. (Doc. 14 at 16-24; see also Doc. 8-1 at 28-36).

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Report and Recommendation should be and is hereby adopted in its entirety. Accordingly:

1. The Report and Recommendation (Doc 13) is **ADOPTED**;
2. Plaintiff's Objection (Doc. 14) is **OVERRULED**;
3. The Commissioner's decision is **AFFIRMED**; and
4. The Clerk shall enter judgment accordingly, whereupon this case is **TERMINATED** on the docket of this Court.

**IT IS SO ORDERED.**

Date: 3/22/18

  
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Timothy S. Black  
United States District Judge