

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

Stephen Hall,

*Plaintiff,*

Case No. 3:15-cv-271

v.

District Judge Thomas M. Rose

Carolyn W. Colvin,  
Commissioner of Social Security,

Chief Magistrate Judge Sharon Ovington

*Defendant.*

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**ENTRY AND ORDER ADOPTING REPORT AND RECOMMENDATIONS OF THE CHIEF MAGISTRATE JUDGE (DOC. 14), OVERRULING DEFENDANT'S OBJECTIONS (DOC. 16), VACATING THE COMMISSIONER'S FINDING OF NON-DISABILITY; REMANDING PLAINTIFF'S APPLICATIONS FOR DISABILITY INSURANCE BENEFITS AND SUPPLEMENTAL SECURITY INCOME FILED ON MARCH 5, 2009 TO THE SOCIAL SECURITY ADMINISTRATION FOR PAYMENT OF BENEFITS CONSISTENT WITH THE SOCIAL SECURITY ACT; AND TERMINATING THE INSTANT CASE.**

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This matter comes before the Court pursuant to Objections (Doc. 16) to the Report and Recommendations of Magistrate Judge Sharon Ovington (Doc.14) recommending that the Commissioner's non-disability finding be vacated and that Plaintiff's applications for Disability Insurance Benefits and Supplemental Security Income be remanded to the Social Security Administration for payment of benefits consistent with the Social Security Act.

Plaintiff's first round of administrative proceedings culminated with an administrative law judge's determination that Plaintiff was not under a disability. (Doc. 6, PageID 44-60).

Plaintiff challenged the ALJ's decision in this Court (3:12cv00322). In March 2014, U.S. District Judge Walter H. Rice found that the ALJ "erred by declining to give controlling or even deferential weight to the opinion of Plaintiff's treating physician, Dr. Martin" and "failed to weigh the opinions of the non-treating, record reviewing physicians by applying the proper evaluative factors in determining how much weight to give those state-agency reviewing physicians, Drs. Diane Manos, M.D. and Elizabeth Das, M.D." (Doc. 7, PageID 1114). Judge Rice therefore reversed the ALJ's decision and remanded the case with directions to the Commissioner to "consider, once again, the medical evidence of record and properly analyze that evidence, both physical and psychological, of the treating physician and non-examining state agency reviewing physicians under the controlling Social Security Regulations. Such review shall apply the 'good reasons rule,' should the Hearing Officer determine that the opinion of any examining or non-examining, reviewing physician is not entitled to controlling weight." Id. at 1115.

The Chief Magistrate concluded that on remand, the ALJ again placed little weight on Dr. Martin's opinions. The Chief Magistrate also notes the ALJ's continued failure to consider Plaintiff's primary impairment—postural orthostatic tachycardia syndrome. Additionally, the ALJ cherry-picked among the evidence, not relying on the opinion of Dr. Martin, Plaintiff's treating physician for 15 years, and likewise dismissing the opinion of Dr. Macklin, an opinion the ALJ had requested.

All of this caused the Chief Magistrate to recommend that the Commissioner's non-disability finding be vacated and that Plaintiff's applications for Disability Insurance Benefits and Supplemental Security Income be remanded to the Social Security Administration for payment of benefits consistent with the Social Security Act.

The Commissioner objected, (Doc. 16), asserting that the ALJ had, indeed, properly weighed the evidence.

The Court has reviewed the findings of the Magistrate Judge and, pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), this Court has made a *de novo* review of the record in this case. Upon consideration of the foregoing, the Court finds the Objections (Doc. 16) are not well-taken and are hereby **OVERRULED**.

The Court **ADOPTS** the Report and Recommendations (Doc. 14) in its entirety. The Commissioner's non-disability finding is hereby **VACATED**. Plaintiff's applications for Disability Insurance Benefits and Supplemental Security Income filed on March 5, 2009 is **REMANDED** to the Social Security Administration for payment of benefits consistent with the Social Security Act. The instant case is **TERMINATED** on the docket of the United States District Court for the Southern District of Ohio, Western District at Dayton.

**DONE** and **ORDERED** this Friday, September 2, 2016.

**s/THOMAS M. ROSE**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE