

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

LARRY A. DEUTSER,)
)
 Plaintiff,)
)
 v.)
)
 MICHAEL J. ASTRUE,)
 Commissioner, Social Security Administration,)
)
 Defendant.)

Case No. 09-CV-705-GKF-FHM

OPINION AND ORDER

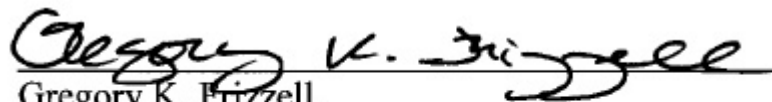
Before the court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Frank H. McCarthy. (Dkt. #24). No objections were filed to the R&R. The R&R is a judicial review of the decision of the Michael J. Astrue, Commissioner of the Social Security Administration, to deny the claim of plaintiff Larry A. Deutser (“Deutser”) for Social Security disability benefits under Title XVI of the Social Security Act (“SSA”), 42 U.S.C. § 1382c(a)(3)(A).

The court has reviewed the R&R to determine “whether the factual findings are supported by substantial evidence in the record and whether the correct legal standards were applied.” *Doyal v. Barnhart*, 331 F.3d 758, 760 (10th Cir. 2003). The court must “neither reweigh the evidence nor substitute [its] judgment for that of the agency.” *White v. Barnhart*, 287 F.3d 903, 905 (10th Cir. 2001) (quoting *Casias v. Sec’y of Health & Human Servs.*, 933 F.2d 799, 800 (10th Cir. 1991)).

The Magistrate Judge determined that the Administrative Law Judge (“ALJ”) failed to articulate how the medical evidence in the record was weighed and used to assess Deutser’s Residual Functional Capacity. The Magistrate Judge further found that because the ALJ did not adequately address the medical evidence of Deutser’s condition, therefore his conclusion regarding Deutser’s credibility was not based upon substantial evidence. The Magistrate Judge also found that the ALJ failed to connect the medical evidence of Deutser’s mental impairments to his findings regarding the ability of Deutser to perform work functions. Because the ALJ did not sufficiently explain his findings and reasons in his written decision, the Magistrate Judge could not determine whether the relevant evidence adequately supported the ALJ’s conclusions. Moreover, the Magistrate Judge determined that the Commissioner did not meet his burden at step five to produce sufficient evidence that the claimant could perform other work. The court has reviewed the R&R and concurs with the Magistrate Judge’s recommendations therein.

For the reasons set forth above, the Report and Recommendation of the Magistrate Judge (Dkt. #24) is accepted and adopted as the order of the court, and the case is remanded to the ALJ for proceedings in accordance therewith.

IT IS SO ORDERED this 3rd day of March, 2011.


Gregory K. Frizzell
United States District Judge
Northern District of Oklahoma