

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

RONNIE McLEAN O/B/O )  
 PATRICIA McLEAN, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MICHAEL J. ASTRUE, Commissioner of )  
 Social Security Administration, )  
 )  
 Defendant. )

Case No. CIV-08-955-M

**ORDER**

On August 31, 2009, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation in this action in which plaintiff seeks judicial review of the final decision of defendant Commissioner of Social Security Administration (“Commissioner”), denying plaintiff’s application for disability insurance benefits and supplemental security income benefits under Titles II and XVI of the Social Security Act, 42 U.S.C. § 416(i), 423, 1382. The Magistrate Judge recommended the decision of the Commissioner denying plaintiff’s applications for benefits be affirmed. The parties were advised of their right to object to the Report and Recommendation within the date of the filing thereof, and on September 21, 2009, plaintiff filed his objections.

In his objections, plaintiff asserts that the Magistrate Judge was incorrect in finding the Administrative Law Judge had fulfilled his duty in providing an accurate residual functional capacity assessment for plaintiff to perform substantial gainful activity. A review of the briefs previously filed in this case reveals plaintiff made virtually the same arguments in his opening brief [docket no. 15]. The Court has carefully considered plaintiff’s arguments in that brief as well as plaintiff’s arguments in his objections to the Report and Recommendation.

Upon de novo review, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on August 31, 2009, and
- (2) AFFIRMS the decision of the Commissioner.

**IT IS SO ORDERED this 24<sup>th</sup> day of September, 2009.**

  
VICKI MILES-LAGRANGE  
CHIEF UNITED STATES DISTRICT JUDGE