

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

DONNA E. BUTTERICK,)
Plaintiff,)
v.) Case No. CIV-09-986-D
MICHAEL J. ASTRUE, Commissioner)
of the Social Security Administration,)
Defendant.)

ORDER

This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Gary M. Purcell pursuant to 28 U.S.C. § 636(b)(1)(B), in this action for judicial review under the Social Security Act, 42 U.S.C. § 405(g). Judge Purcell recommends affirmance of the Commissioner’s decision denying Plaintiff’s application for disability insurance benefits. Plaintiff has filed a timely objection. Thus, the Court must make a de novo determination of issues specifically raised by the objection, and may accept, modify or reject the recommended decision. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

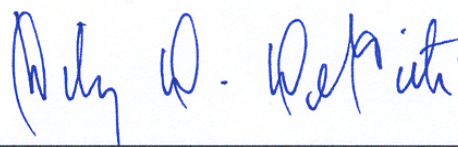
An administrative law judge (ALJ) found that Plaintiff had severe impairments of major depression, generalized anxiety, phobia of spiders, polysubstance abuse disorder (in remission), and hyperactive airway disease. The ALJ also found that Plaintiff had the residual functional capacity to perform light work that involved only minimum public contact, no complex tasks or assignments, and occasional detailed assignments, and provided a work environment free of dust, fumes, and odors. The ALJ determined at step five of the sequential analysis that there existed jobs in significant numbers in the national economy that Plaintiff could perform. In this action, Plaintiff argues three propositions of error: (1) the ALJ improperly relied on the testimony of a medical

expert; (2) the ALJ improperly determined that Plaintiff could perform other work; and (3) the ALJ failed to comply with SSR 00-4p. In the Report and Recommendation, Judge Purcell conducts a thorough analysis of the issues and, based on the administrative record and the parties' briefs, finds that the ALJ's decision is supported by substantial evidence and free of legal error.¹

In the Objection, Plaintiff ignores Judge Purcell's analysis and simply repeats arguments previously presented in her reply brief. *Compare* Pl's Reply Br. [Doc. No. 24] *with* Pl.'s Objection [Doc. No. 26]. The Court finds Plaintiff's failure to identify any error in Judge Purcell's analysis of the issues prevents further review. "[A] party's objections to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court." *See United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996); *see also Soliz v. Chater*, 82 F.3d 373, 375-76 (10th Cir. 1996). Further, upon consideration of Plaintiff's arguments in light of the administrative record, the Court concurs in Judge Purcell's analysis and conclusions. The Court finds that Plaintiff has failed to demonstrate any reversible error in the ALJ's determination.

IT IS THEREFORE ORDERED that Judge Purcell's Report and Recommendation [Doc. No. 25] is adopted in its entirety. The Commissioner's decision is affirmed. Judgment will be entered accordingly.

IT IS SO ORDERED this 24th day of June, 2010.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

¹ Judge Purcell finds two scrivener's errors in the ALJ's decision that do not warrant a remand for correction.