

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

MARY J. WORTMAN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-10-1031-F
	)	
MICHAEL J. ASTRUE,	)	
	)	
Defendant.	)	

**ORDER**

Plaintiff brings this action pursuant to 42 U.S.C. § 405(g), seeking judicial review of Defendant Commissioner’s final decision denying plaintiff’s application for disability insurance benefits under the Social Security Act. The Report and Recommendation of Magistrate Judge Bana Roberts (doc. no. 18) affirms the decision of the Commissioner denying benefits. Plaintiff objects to the Report (doc. no. 19) and her objections are reviewed *de novo*. See, 28 U.S.C. § 636(b)(1) (court makes a *de novo* determination of those portions of the report to which objection is made).

Plaintiff’s objections state that she disagrees with “everything” in the Report but she makes only one specific argument. Plaintiff directs the court’s attention to what she contends are the Magistrate Judge’s flawed conclusions regarding the Administrative Law Judge’s rejection of the opinion of Dr. Gary Rouse, Ph.D., who plaintiff characterizes as plaintiff’s treating physician. Plaintiff argues that the Magistrate Judge and the ALJ violated the “treating physician rule” based on the manner in which they evaluated, and ultimately rejected, Dr. Rouse’s opinions.


As set out in the Report, the treating physician rule provides that the Commissioner will generally give more weight to medical opinions from treating

sources than to those from non-treating sources; in some circumstances, which plaintiff argues apply here, such opinions are entitled to controlling weight.

For appropriate reasons set out in the Report, the Magistrate Judge did not conclude that Dr. Rouse was plaintiff's treating physician. Rather, the Magistrate Judge simply analyzed the question of whether Dr. Rouse's opinions were entitled to treatment under the treating physician rule "assuming *arguendo*," that Dr. Rouse is considered to be a treating physician. In any event, the court agrees with the Magistrate Judge's analysis and conclusions, and finds no error with respect to the ALJ's handling of Dr. Rouse's opinions or the Magistrate Judge's conclusions on this subject.

The Report and Recommendation of Magistrate Judge Roberts is **ACCEPTED**, **ADOPTED** and **AFFIRMED**. The decision of the Commissioner of the Social Security Administration denying benefits is **AFFIRMED**.

Dated this 8<sup>th</sup> day of August, 2011.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE