

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

JEANNE CADENHEAD,)
)
Plaintiff,)
)
-vs-)
)
CAROLYN W. COLVIN, Acting)
Commissioner of the Social Security)
Administration,)

Case No. CIV-15-1121-F

ORDER

Plaintiff Jeanne Cadenhead brings this action seeking judicial review of the Social Security Administration’s denial of disability insurance benefits (DIB) and supplemental security income (SSI).

Magistrate Judge Bernard M. Jones issued a Report and Recommendation in this matter on December 19, 2016 (doc. no. 25), recommending that the Commissioner’s decision be reversed and that the matter be remanded for further proceedings consistent with the Report and Recommendation, specifically, for proper consideration at Step 3. The Report concluded that the Administrative Law Judge did not properly consider whether plaintiff met the requirements of an impairment regarding her respiratory disorder at Step 3 of the sequential evaluation. The Report noted that the Administrative Law Judge discussed evidence potentially supporting his decision in this regard, but that the discussion was insufficient because it was located elsewhere in the decision and not in the discussion of Step 3.


Plaintiff did not object to the Report.

Defendant objects to the Report (doc. no. 26), arguing that the Administrative Law Judge’s discussion at Step 3 was sufficient because nothing requires the

findings to be located under a particular heading. As stated in the Report, however, the Administrative Law Judge summarized the evidence regarding the pulmonary function test solely in the context of the Residual Functional Capacity determination. In this situation, the court agrees with the Report's conclusion that the record fails to demonstrate how these test results relate, if at all, to the step-three findings. Doc. no. 25, p. 5. Accordingly, after *de novo* review, defendant's objection is **DENIED**.

Accordingly, the court **ACCEPTS, AFFIRMS, and ADOPTS** the findings and recommendations of Magistrate Judge Jones. As recommended by the magistrate judge, the Commissioner's decision is reversed and the matter is **REMANDED** for further proceedings consistent with the Report and Recommendation.

Dated this 19th day of January, 2017.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE