

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

PAMELA McKENNA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-17-157-M
)	
NANCY A. BERRYHILL,)	
Acting Commissioner of Social)	
Security Administration,)	
)	
Defendant.)	

ORDER

On November 8, 2017, United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation in this action in which plaintiff seeks judicial review of the final decision of defendant Acting Commissioner of Social Security Administration (“Acting Commissioner”) denying plaintiff’s applications for disability insurance and supplemental security income benefits under Title II and Title XVI of the Social Security Act, 42 U.S.C. §§ 416(i), 423, 1382. The Magistrate Judge recommended the Acting Commissioner’s decision in this matter be affirmed. The parties were advised of their right to object to the Report and Recommendation by November 28, 2017. On November 27, 2017, plaintiff filed her objection, and on December 11, 2017, the Acting Commissioner filed her response to plaintiff’s objection.

In her objection, plaintiff asserts that the Magistrate Judge added terms not included in the residual functional capacity (“RFC”) in reaching his decision. Specifically, plaintiff asserts that the Magistrate Judge added the term “at will.” Having carefully reviewed the Report and Recommendation, the Court finds that the Magistrate Judge did not improperly add the term “at will” to the RFC. A review of the Report and Recommendation clearly shows that the Magistrate Judge accurately stated that the RFC included that plaintiff was “required the option to alternate

sitting and standing positions at the workstation.” Report and Recommendation [docket no. 22] at 3. The Magistrate Judge then concluded that the “option” included in the RFC equated to the ability to sit or stand “at will.” *Id.* at 7. Having carefully reviewed this matter de novo, the Court agrees with the Magistrate Judge’s conclusion.

Accordingly, the Court:

- (1) ADOPTS the Report and Recommendation [docket no. 22] issued by the Magistrate Judge on November 8, 2017, and
- (2) AFFIRMS the decision of the Acting Commissioner.

IT IS SO ORDERED this 13th day of March, 2018.


VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE