

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

KIMBERLY A WOLFER,

Plaintiff,

vs.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 3:16-cv-01672-CL
ORDER

AIKEN, District Judge:

Magistrate Judge Clarke filed his Findings and Recommendation (“F&R”) on 11/27/2017 (doc. 26) recommending that the decision of the Commissioner be reversed and remanded for further proceedings. The matter is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). When either party objects to any portion of a magistrate judge’s F&R, the district court must make a *de novo* determination of that portion of the magistrate judge’s report. *See* 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert denied*, 455 U.S. 920 (1982).

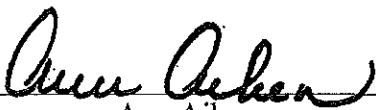
The Commissioner filed timely objections to the F&R (doc. 28), and plaintiff has filed a response (doc. 29). Thus, I review the F&R *de novo*.

The arguments raised by the Commissioner in her objections are functionally identical to those raised before Judge Clarke. Having reviewed the record and the F&R *de novo*, I find no error in Judge Clarke's reasoning. On remand, the ALJ is instructed to include the functional limitations given by Dr. Milner in plaintiff's RFC and the Vocational Expert Hypothetical.

Thus, I adopt Magistrate Judge Clarke's F&R (doc. 26) in its entirety. Accordingly, the decision of the Commissioner is REVERSED and REMANDED for further proceedings consistent with the F&R and this order. This case is DISMISSED.

IT IS SO ORDERED.

Dated this 19 day of January, 2018.



Ann Aiken
United States District Judge