

3. The Plaintiff's Request for Review is **GRANTED IN PART AND DENIED IN PART**;
 4. The case is **REMANDED** in accordance with the fourth sentence of 42 U.S.C. § 405(g) for further proceedings consistent with the Report and Recommendation of Magistrate Judge Wells. Specifically, upon remand, the Administrative Law Judge ("ALJ") should: (a) obtain additional, suitable evidence (vocational expert testimony, use of a learned treatise, or administrative notice with Plaintiff's opportunity to rebut) to determine whether Plaintiff is able to work; (b) include in the residual functional capacity assessment and in posing a hypothetical question to the vocational expert, Plaintiff's deficiency in concentration, persistence, and pace and; (c) reconsider the findings of Janet Horowitz, Psy. D., acknowledging Plaintiff's testimony that her mental impairment limits her daily functioning.
 5. The Clerk of court is directed to **CLOSE** this action for statistical purposes.
- It is so **ORDERED**.

exertional impairments. When a Plaintiff suffers from both exertional and non-exertional impairments the ALJ may not rely solely upon the Medical-Vocational Guidelines, therefore, the case should be properly remanded so that the ALJ may obtain additional evidence that the Plaintiff is able to work. See Sykes v. Apfel, 228 F.3d 259, 267 (3d Cir. 2000).

The Court also agrees with Magistrate Judge Wells' determination that the ALJ failed to account for the Plaintiff's pace limitations when setting Plaintiff's "residual functional capacity" ("RFC"), making the assessment incomplete and remand necessary. See Ramirez v. Barnhart, 372 F.3d 546, 551 (3d Cir. 2004). Additionally, the Court concurs with the finding that the ALJ did not give proper weight to the assessment of the Plaintiff by a Consultive Psychologist and misconstrued the testimony of the Plaintiff, thereby discounting evidence for "no reason or the wrong reason." See Mason v. Shalala, 994 F.2d 1058, 1066 (3d Cir. 1993).

As the Commissioner has elected not to object to any of the findings or recommendations in the R&R, this Court will not elaborate further on the matter. The R&R will be approved and adopted as provided in this Order.

BY THE COURT:

s/Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.