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IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

2009 FEB 17 A 9 32

RONALD J. JACKSON,)
)
 Plaintiff,)
)
 vs.)
)
 MICHAEL J. ASTRUE,)
 Commissioner of Social Security,)
)
 Defendant.)
 _____)

Civil Action No. 2:08-0176-TLW-RSC

ORDER

Plaintiff has brought this action to obtain judicial review of a final decision of the defendant, Commissioner of Social Security, denying his claims for Disability Insurance Benefits and supplemental security income benefits under the Social Security Act. This matter is before the Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Robert S. Carr, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(a), (D.S.C.). In the Report, the Magistrate Judge recommends that the Commissioner’s decision be reversed under sentence four of 42 U.S.C. § 405(g) and 1383(c)(3), and the case be remanded to the Commissioner to take appropriate action regarding the functional requirements of the plaintiff’s past relevant work and to continue the sequential evaluation process if necessary. The Report was filed on January 21, 2009. The Commissioner filed objections on February 9, 2009.

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The

Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto.

After a thorough review of the record, the Report, and the defendant's objections in accordance with the standard set forth above, and for the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 17), defendant's objections are **OVERRULED** (Doc. # 19), and the Commissioner's decision is **REVERSED** under sentence four of 42 U.S.C. § 405(g) and 1383(c)(3) and this case is **REMANDED** to the Commissioner to take appropriate action regarding the functional requirements of the plaintiff's past relevant work and to continue the sequential evaluation process if necessary.

IT IS SO ORDERED.

s/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

February 13, 2009
Florence, South Carolina