

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

Patricia Ellis,)	C/A No. 3:07-3996-CMC-JRM
)	
Plaintiff,)	
)	
v.)	
)	OPINION AND ORDER
Michael J. Astrue,)	
Commissioner of Social Security,)	
)	
Defendant.)	
)	

Through this action, Plaintiff seeks judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's claim for Supplemental Security Income ("SSI") and Disability Insurance Benefits ("DIB"). Plaintiff appealed pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3). The matter is currently before the court for review of the Report and Recommendation ("Report") of Magistrate Judge Joseph R. McCrorey, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rules 73.02(B)(2)(a) and 83.VII.02, *et seq.*, D.S.C.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'") (quoting Fed. R. Civ. P. 72 advisory committee's note).

The Report was filed on February 19, 2009, and recommends that the decision of the Commissioner be reversed and the case remanded to the Commissioner for further proceedings. Specifically, the Report recommends that the case be remanded to consider all of Plaintiff's impairments (including obesity and neuropathy and/or radiculopathy), determine her RFC in light of all of the evidence, properly evaluate her credibility, consider the opinion of Plaintiff's treating neurologist (Dr. Smith) in light of all of the evidence, and continue the sequential evaluation process if necessary. No objections have been filed.¹

After reviewing the record, the applicable law, and the findings and recommendations of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation is adopted and incorporated by reference. For the reasons set out therein, the final decision of the Commissioner is **reversed and the case is remanded** to the Commissioner pursuant to Sentence Four of 42 U.S.C. §§ 405(g) for further action consistent with the directions in the Report and Recommendation as here incorporated.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
March 5, 2009

¹ On March 4, 2009, Defendant notified the court that he would not file objections to the Magistrate Judge's Report and Recommendation. Dkt. No. 19.