

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

Tron S. McCoy,)	
)	C/A No. 6:10-0380-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Michael J. Astrue, Commissioner of)	
Social Security,)	
)	
Defendant.)	
)	

Plaintiff Tron S. McCoy filed the within action on February 17, 2010, seeking judicial review of a final decision of Defendant Commissioner of Social Security denying his application for a period of disability and disability insurance benefits.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kevin F. McDonald for pretrial handling. On May 2, 2011, the Magistrate Judge issued a Report of Magistrate Judge in which he determined that the decision of the Commissioner was not supported by substantial evidence. The Magistrate Judge determined that the Administrative Law Judge (ALJ) did not properly analyze Plaintiff's credibility; failed to properly consider Dr. Holdren's opinions; and needed to reconsider whether Plaintiff's condition improved such that he was no longer disabled as of July 2007. The Magistrate Judge also determined that the ALJ should articulate his assessment of additional evidence submitted by Plaintiff to the Appeals Council. Accordingly, the Magistrate Judge recommended that the decision be reversed and remanded for further proceedings. Plaintiff filed no objection to the Report and Recommendation. On May 19, 2011, the Commissioner filed a Notice of Not Filing Objections.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report of 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 may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). 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.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The decision of the Commissioner is reversed under sentence four of 42 U.S.C. § 405(g) with a remand of the cause for further proceedings as set forth hereinabove and in the Report of Magistrate Judge.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

June 13, 2011.