

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

Ricky Eugene Brown,

Plaintiff,

vs.

Michael J. Astrue, Commissioner of
Social Security,

Defendant.

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) C/A No. 6:11-1500-MBS
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)

OPINION AND ORDER

Plaintiff Ricky Eugene Brown filed the within action on July 6, 2011, seeking judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's application for 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 June 29, 2012, the Magistrate Judge issued a Report of Magistrate Judge in which, among other things, he determined that (1) the ALJ improperly considered the opinion of Randy L. Adams, M.Ed., a vocational evaluator; (2) the ALJ should consider the record as a whole, including new evidence from C. David Tollison, Ph.D., and Stephen F. Worsham, M.D.; (3) the ALJ should obtain additional vocational expert testimony based upon the new evidence and reevaluation of expert opinions. Accordingly, the Magistrate Judge recommended that the Commissioner's decision be reversed under sentence four of 42 U.S.C. § 405(g), with a remand of the cause to the Commissioner for further proceedings. Plaintiff filed no objections to the Report of Magistrate Judge. On July 16, 2012, the Commissioner filed a Notice of Not Filing Objections to the Report and Recommendation of Magistrate Judge.

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). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. This court is obligated to conduct a de novo review of every portion of the Magistrate Judge's report to which objections have been filed. Id. 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 of Magistrate Judge 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 to the Commissioner for further proceedings consistent with this Order and the Report of Magistrate Judge.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Chief United States District Judge

Columbia, South Carolina

July 24, 2012.