

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Tammy R. Lucas Sills,	)	
	)	
Plaintiff,	)	Civil Action No. 9:21-2907-RMG
	)	
vs.	)	
	)	
Commissioner of Social Security	)	
Administration,	)	<b>ORDER</b>
	)	
Defendant.	)	
	)	
_____	)	

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff’s application for Disability Insurance Benefits (“DIB”). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation (“R & R”) on July 19, 2022 (Dkt. No. 16), recommending that the decision of the Commissioner be reversed and remanded to the agency because the decision of the Administrative Law Judge (“ALJ”) failed to make a function by function analysis in determining Plaintiff’s RFC, which is required where the evidence is contested regarding the claimant’s capacity to perform job duties. *Dowling v. Commissioner of Social Security*, 986 F.3d 377, 388-389 (4<sup>th</sup> Cir. 2021). The Commissioner has advised the Court she does not intend to file an objection to the R & R. (Dkt. No. 17).

The Court finds that the Magistrate Judge ably addressed the factual and legal issues in this appeal and correctly determined that the ALJ’s decision failed to perform a proper function

by function analysis in determining the claimant's RFC, as required under *Dowling*. The Court **ADOPTS** the Report and Recommendation as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order.

**AND IT IS SO ORDERED.**

s/ Richard M. Gergel  
Richard M. Gergel  
United States District Judge

August 2, 2022  
Charleston, South Carolina