

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

LESLIE T. HOLMES,

Plaintiff,

versus

CAROLYN W. COLVIN,
ACTING COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION,

Defendant.

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CIVIL ACTION NO. 1:05-CV-677

**MEMORANDUM ORDER ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

The Court referred this case to the Honorable Keith Giblin, United States Magistrate Judge, for consideration. The magistrate judge submitted a report recommending that the Commissioner’s decision denying plaintiff’s application for social security benefits be affirmed. Plaintiff filed objections to the magistrate judge’s report. The Court accordingly conducted a *de novo* review of the report, the objections, the record, and the applicable law. *See* FED. R. CIV. P. 72(b); 28 U.S.C. § 636(b). After consideration, the Court concludes that the objections should be overruled.

Plaintiff’s objections focus on Judge Giblin’s review of the ALJ’s evaluation of the medical evidence. Judge Giblin’s analysis shows he carefully considered the plaintiff’s points of error. The plaintiff argues that the Commissioner’s decision should be reversed because the administrative law judge (“ALJ”) relied on the opinion of a consulting physician who did not have full access to all of the plaintiff’s medical records. This is without merit. The record shows that the consulting physician, Dr. Isaac, considered the plaintiff’s major medical history before

formulating his opinion. The record also shows that the ALJ considered the medical evidence as a whole in evaluating the plaintiff's claim. As Judge Giblin's report notes, the Appeals Council also specifically addressed the disputed evidence before it affirmed the ALJ.

The plaintiff's objections regarding the weight afforded to the medical opinion evidence are also without merit. Judge Giblin discussed applicable case law governing the ALJ's consideration of medical opinion evidence. The magistrate judge concluded that the ALJ properly weighed the medical evidence and found that the ALJ's decision on this issue is supported by substantial evidence. The record supports this determination and the plaintiff's objections do not establish otherwise.

Finally, as for plaintiff's allegation that Judge Giblin failed to properly evaluate the ALJ's consideration of the plaintiff's subjective complaints, the Court overrules this objection. The record reveals that the ALJ engaged in the proper analysis on the credibility issue and the ALJ's finding is supported by substantial evidence. The Court also agrees with Judge Giblin that the plaintiff failed to properly brief this issue for consideration.

The Court therefore ORDERS that the plaintiff's objections (#37) are OVERRULED. The Court finds that the magistrate judge's findings of fact and conclusions of law of are correct. The Report and Recommendation (doc. #36) is ADOPTED and the Commissioner's decision is AFFIRMED. The Court will enter final judgment separately.

SIGNED at Beaumont, Texas, this 27th day of March, 2013.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE