

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SABRINA DIANA RINEHART,
Plaintiff,

v.

**COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION,**
Defendant.

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CIVIL ACTION No. 6:14-cv-500

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


Plaintiff Sabrina D. Rinehart initiated this civil action pursuant to Social Security Act, Section 205(g) for judicial review of the Commissioner's denial of Plaintiff's application for Social Security benefits. The case was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the decision of the Commissioner should be affirmed and the action dismissed with prejudice.

The Report and Recommendation of the Magistrate Judge (Doc. No. 17), which contains his findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. Plaintiff has filed an objection to the Report and Recommendation (Doc. No. 18.) Specifically, Plaintiff objects to Judge Love's finding that Dr. Mount's opinions were adequately considered by the Appeals Council. *Id.* at 1. Plaintiff's argument, however, is that the record was not fully developed by the ALJ because the ALJ did not consider these opinions prior to the issuance of his decision. *Id.* at 2-3. As explained in the Magistrate Judge's recommendation, while the records from Mr. Mount's examination did not reach the ALJ prior to his decision, the Appeals Council made this additional evidence part of the record and it therefore became part of the record on which the Commissioner's final decision was based.

(Doc. No. 17, at 7, citing Tr. at 1-4; Higginbotham v. Barnhart, 405 F.3d 332, 337 (5th Cir. 2005).) Indeed, in her objections, Plaintiff does not contest that the records from Dr. Mount were ultimately made part of the record and considered by the Appeals Council. Moreover, the Magistrate Judge further went on to explain that even considering Dr. Mount's additional evidence, the ALJ's RFC determination was supported by substantial evidence. (Doc. No. 7, at 8.) Nothing in Plaintiff's objections suggests the ALJ's RFC finding was not supported by substantial evidence as explained by the Magistrate Judge. Accordingly, the Court agrees with the Magistrate Judge's finding that the records provided by Dr. Mount were included in the record for the Appeals Council and Commissioner's final decision, and that ALJ did not err in his RFC finding.

Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly **ORDERED** that the decision of the Commissioner is **AFFIRMED** and the complaint is hereby **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that any motion not previously ruled on is **DENIED**.

SIGNED this 14th day of September, 2015.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE