

ENTERED

April 08, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

KENNETH F. WITTNEBEN

Plaintiff.

VS.

NANCY A. BERRYHILL, ACTING
COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION

Defendant.

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CIVIL ACTION NO. 3:18-CV-00174

**ORDER ADOPTING MAGISTRATE JUDGE'S
MEMORANDUM AND RECOMMENDATION**

On September 25, 2018, this case was referred to United States Magistrate Judge Andrew M. Edison. Dkt. 11. On March 12, 2019, Judge Edison filed a Memorandum and Recommendation (Dkt. 21) recommending that Plaintiff, Kenneth Wittneben's Motion for Summary Judgment (Dkt. 15) be **GRANTED**; Defendant's Cross Motion for Summary Judgment (Dkt. 17) be **DENIED**; and the decision of the Administrative Law Judge be **REVERSED** and **REMANDED**.

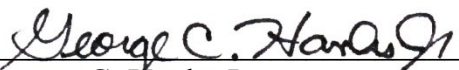
No objections have been filed to the Memorandum and Recommendation. Accordingly, the Court reviews the Memorandum and Recommendation for plain error on the face of the record. 28 U.S.C. § 636(b)(1); *see also*, FED. R. CIV. P. 72(b)(3).

Based on the pleadings, the record and the applicable law, the Court finds that there is no plain error apparent from the face of the record. Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

- (1) Judge Edison's Memorandum and Recommendation (Dkt. 21) is **APPROVED AND ADOPTED** in its entirety as the holding of the Court;
- (2) Plaintiff, Kenneth Wittneben's Motion for Summary Judgment (Dkt. 15) is **GRANTED**;
- (3) Defendant's Cross Motion for Summary Judgment (Dkt. 17) is **DENIED**;
and
- (4) The decision of the Administrative Law Judge is **REVERSED** and **REMANDED**.

It is so **ORDERED**.

SIGNED at Galveston, Texas, this 8th day of April, 2019.



George C. Hanks Jr.
United States District Judge