

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

FLORENCE M. ALFANO,
Plaintiff,

v.

Civil No. 2:13cv330

CAROLYN W. COLVIN,
Acting Commissioner of
Social Security Administration,
Defendant.

FINAL ORDER

Plaintiff Florence M. Alfano brought this action under 42 U.S.C. §§ 405(g) and 1383(c)(3) seeking judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) denying her claim for disability insurance benefits (“DIB”) pursuant to section 205(g) of the Social Security Act. Pursuant to the provisions of 28 U.S.C. §§ 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure, Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia, and by order of reference dated September 4, 2013, this matter was referred to United States Magistrate Judge Tommy E. Miller for a Report and Recommendation (“R&R”).

In the R&R filed May 28, 2014, Magistrate Judge Miller found the decision by the Administrative Law Judge (“ALJ”) denying Ms. Alfano’s claim unsupported by substantial evidence because the ALJ failed to properly evaluate Ms. Alfano’s credibility and the medical opinion evidence. May 28, 2014 R&R at 18, ECF No. 17; *see, Id.* at 20 n.4, 25-27, 29, & 35. Accordingly, Magistrate Judge Miller recommended denying the Commissioner’s Motion for Summary Judgment, granting Ms. Alfano’s Motion for Summary Judgment, and vacating and remanding the decision of the Commissioner. *Id.* at 18.

By copy of the R&R, each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge. The time for filing written objections has passed, and neither party has filed objections to the Magistrate Judge's R&R. As indicated in the R&R, "failure to file timely objections to the findings and recommendations set forth [in the R&R] will result in waiver of right to appeal from a judgment of this court based on such findings and recommendations." *Id.* at 36.

This Court has fully reviewed the R&R and hereby **ADOPTS** and **APPROVES** in the findings and recommendations set forth therein. Accordingly, it is hereby **ORDERED** that Ms. Alfano's Motion for Summary Judgment (ECF No. 13) is **GRANTED**, the Commissioner's Cross-Motion for Summary Judgment (ECF No. 14) is **DENIED**, and the decision of the Commissioner is **VACATED** and **REMANDED** for further analysis consistent with the R&R.

The Clerk is **REQUESTED** to forward a copy of this Order to all parties.

IT IS SO ORDERED.

July ²⁹, 2014
Norfolk, Virginia



Arenda L. Wright Allen
United States District Judge