

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

MARIA DE LOURDES ARROYO,

Plaintiff,

v.

Case No: 6:16-cv-1862-Orl-22TBS

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

REPORT AND RECOMMENDATION

This matter comes before the Court on the Commissioner's Unopposed Motion to Correct Order Pursuant to Rule 60(a) of the Federal Rules of Civil Procedure (Doc. 28). The motion is well taken and I respectfully recommend that it be **granted**.

Discussion

Rule 60(a) is a mechanism that allows the court to "correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record." On November 13, 2017, I entered a report and recommendation in which I recommended the district judge reverse the Commissioner's final decision, remand the case for further proceedings consistent with the report, and close the case (Doc. 22 at 10). The report included an additional recommendation that "[t]he Commissioner's favorable decision regarding Plaintiffs' disability status *after* May 27, 2015 remain undisturbed" (*Id.*). This last recommendation was included due to a scrivener's error. The district judge entered a subsequent order in which she expressly incorporated the erroneous recommendation (Doc. 23). Judgement was entered in favor of Plaintiff and against Commissioner (Doc. 24) and the case was closed (Docket). Now,

six months later, the Commissioner has requested that the Court correct the order by deleting the erroneous sentence (Doc. 28). Correcting the order will have no effect on the judgment and will only serve to clear the record of a typographical mistake.

Recommendation

Therefore, I **RESPECTFULLY RECOMMEND** that,

(1) The Commissioner's motion (Doc. 28) be **GRANTED NUNC PRO TUNC**;

(2) That the Court **REPLACE** the Order at Docket Entry 23 with a corrected order that adopts and confirms the Report and Recommendation (Doc. 22) except that it **REJECTS** the following recommendation: "The Commissioner's favorable decision regarding Plaintiff's disability status after May 27, 2015 remain undisturbed."

(3) The parties be **ADVISED** that the substitution of the order does not serve to alter the judgment, re-open the case, or revive any case related deadlines.

Notice to Parties

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. See 11th Cir. R. 3-1.

RECOMMENDED in Orlando, Florida on June 4, 2018.


THOMAS B. SMITH
United States Magistrate Judge

Copies furnished to:

Presiding United States District Court
Counsel of Record