UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JENNIFER L. WHALEY,

Plaintiff,

v. Case No: 2:17-cv-324-FtM-38CM

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
_____/

OPINION AND ORDER[1]

Before the Court is United States Magistrate Judge Carol Mirando's Report and Recommendation (Doc. 23). Judge Mirando recommends that the Commissioner's decision be reversed and remanded. No party has objected to the Report and Recommendation, and the period to do so has lapsed. This matter is ripe for review.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. *See* 28 U.S.C. § 636(b)(1); *see also Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject, or modify, in whole or in part, the findings and recommendations, 28 U.S.C. § 636(b)(1)(C). The district judge

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reviews legal conclusions *de novo*, even in the absence of an objection. *See Cooper-Houston v. Southern Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994).

After independently examining the file and on consideration of Judge Mirando's findings and recommendation, the Court accepts and adopts the Report and Recommendation.

Accordingly, it is now

ORDERED:

1. The Report and Recommendation (Doc. 23) is **ACCEPTED** and **ADOPTED** and the findings incorporated herein.
2. The decision of the Commissioner is **REVERSED** and this matter is **REMANDED** to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g), for the Commissioner to:
    a. Fully consider all evidence from Kellee Anderson and resolve and conflicts therein;
    b. Reevaluate as appropriate the evidence of Rebecca Marazon, MS, CAS, and Christine Needham, Ed.D.; and
    c. Make any other determinations consistent with this Order or in the interests of justice.
3. The Clerk of Court is **DIRECTED** to enter judgment pursuant to sentence four of 42 U.S.C. § 405(b) in favor of Jennifer Whaley, and close the file.

DONE and **ORDERED** in Fort Myers, Florida this 16th day of August 2018.

SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record