

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

JACK LEWIS, JR.,

Plaintiff,

v.

Case No. 6:17-cv-356-Orl-37DCI

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

In this social security appeal, Plaintiff seeks review of the Commissioner's decision to deny him social security disability benefits. (Doc. 1.) In support, Plaintiff contends that the Administrative Law Judge ("ALJ") erred by: (1) failing to properly perform a function-by-function analysis to determine his residual functional capacity; (2) applying improper weights to his examining and non-examining physicians; (3) misidentifying his past relevant work; (4) finding his testimony regarding his pain and limitations not entirely credible; and (5) relying on the vocational expert's testimony to determine that he could perform his past relevant work. (Doc. 23, pp. 6-17, 21-26.)

On referral, U.S. Magistrate Judge Daniel C. Irick recommends that the Court affirm the Commissioner's decision. (Doc. 24 ("R&R").) Specifically, he rejects all of Plaintiff's assignments of error, concluding that the ALJ: (1) performed a function-by-function analysis by considering all relevant evidence; (2) gave the proper weight to Plaintiff's examining and non-examining physicians; (3) articulated good cause for

finding Plaintiff's testimony regarding pain and limitations not entirely credible, and such reasons were supported by substantial evidence; (4) did not err in concluding that Plaintiff's work as a line cook constituted past relevant work; and (5) properly relied on the vocational expert's testimony because such testimony was consistent with Plaintiff's residual functional capacity. (*Id.* at 3-16.)

The parties did not object to the R&R, and the time for doing so has now passed. Absent objections, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan. 28, 2016); *see also Marcort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). Finding no clear error, the Court concludes that the R&R is due to be adopted in its entirety.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. U.S. Magistrate Judge Daniel C. Irick's Report and Recommendation (Doc. 24) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. The Commissioner's decision is **AFFIRMED**.
3. The Clerk is **DIRECTED** to enter judgment in favor of Defendant Commissioner of Social Security and against Plaintiff Jack Lewis, Jr., and to close the file.

DONE AND ORDERED in Chambers in Orlando, Florida, on January 16, 2018.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record