

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**LINDA ANN LEVIN,**

**Plaintiff,**

**v.**

**Case No: 6:17-cv-358-Orl-18MCR**

**COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

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**ORDER**

This cause concerns Plaintiff Linda Ann Levin's appeal from a final decision of the Commissioner of the Social Security Administration (the "Commissioner") denying her applications for a period of disability, disability insurance benefits, and supplemental security income after proceedings before an Administrative Law Judge ("ALJ").<sup>1</sup> On April 18, 2018, the United States Magistrate Judge entered a report and recommendation (Doc. 27) (the "Report and Recommendation"), recommending that the Commissioner's decision be reversed and remanded. (*Id.* at 7.) As grounds therefore, the United States Magistrate Judge found that, "although the ALJ discussed the medical evidence in general, he did not address what medical evidence supported his finding that Plaintiff could perform 'simple 1-2 step tasks . . . with reasoning/math/language at level one,' despite Plaintiff's moderate limitations in concentration, persistence, or pace." (*Id.* at 6.) As further set forth in the Report and Recommendation, it is not sufficiently clear whether "the ALJ's [Residual Functional Capacity] assessment and hypothetical question are supported by substantial evidence as it is unclear whether the mental limitations included therein sufficiently account for Plaintiff's moderate limitations in concentration, persistence, or pace." (*Id.* at 6-7.) Subsequently, on May 2, 2018, Defendant filed objections to the Report and Recommendation (Doc. 28) (the "Objections"), to which Plaintiff filed a response on May 14, 2018

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<sup>1</sup> The Commissioner filed a certified copy of the record before the Social Security Administration. (*See* Doc. 19.)

(Doc. 29) (the "Response"). After *de novo* review of the portion of the Report and Recommendation to which Defendant objected, it is hereby **ORDERED** and **ADJUDGED** as follows:

1. United States Magistrate Judge Monte C. Richardson's Report and Recommendation (Doc. 27) is **APPROVED** and **ADOPTED** and is made part of this Order for all purposes, including appellate review.

2. The Commissioner's decision is **REVERSED** and **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g). The ALJ is instructed to: (a) consider the testimony of Plaintiff's brother and the opinions of the vocational counselor; (b) account for Plaintiff's moderate limitations in concentration, persistence, or pace in the Residual Functional Capacity assessment and hypothetical question to the Vocational Expert; (c) re-evaluate Plaintiff's Residual Functional Capacity assessment, if necessary; and (d) conduct any further proceedings deemed appropriate.

3. The Clerk of Court is directed to **ENTER JUDGMENT** accordingly, **TERMINATE** any pending motions, and thereafter **CLOSE** the file.

4. In the event that benefits are awarded on remand, any §406(b) or §1383(d)(2) fee application should be filed within the parameters set forth by the Order entered in *In re: Procedures for Applying for Attorney's Fees under 42 U.S.C. §§ 406(b) & 1383(d)(2)*, Case No.: 6:12-mc-124-Orl-22 (M.D. Fla. Nov. 13, 2012). The instant Order shall not be interpreted as extending the time limits for filing a motion for attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2142.

**DONE** and **ORDERED** in Orlando, Florida, this 17 day of August, 2018.

  
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**G. KENDALL SHARP**  
SENIOR UNITED STATES DISTRICT JUDGE

Copies to:  
Counsel of Record