

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

JACKIE B. GAMMON,

Plaintiff,

v.

Case No. 6:17-cv-904-Orl-37GJK

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

In this social security appeal, Plaintiff seeks review of the Commissioner's decision to deny her disability benefits. (Doc. 1.) Plaintiff argues that the administrative law judge ("ALJ") committed reversible error by: (1) applying an improper legal standard to treatment notes of a nurse practitioner who evaluated her; and (2) failing to weigh a checkbox form completed by the nurse practitioner and one of her treating physicians ("**Checkbox Form**"). (See Doc. 12, pp. 16–28.) Based on these errors, Plaintiff requests that the Court reverse the Commissioner's decision for an award of benefits or, alternatively, impose a time limit of 120 days to complete administrative proceedings on remand. (*Id.* at 29–30.) In support, she argues that she has suffered an injustice because this is her third appeal and her applications have been pending since September 2009. (*Id.*)

On referral, U.S. Magistrate Judge Gregory J. Kelly recommends that the Court reverse and remand this action for further administrative proceedings. (Doc. 13 ("**R&R**").) In his R&R, Magistrate Judge Kelly agrees with Plaintiff's second assignment

of error, concluding that the Checkbox Form was a medical opinion, which required the ALJ to state with particularity the weight given to it and her reasoning. (*Id.* at 8.) With respect to Plaintiff's request for an award of benefits or imposition of a time limit, Magistrate Judge Kelly finds both requests inappropriate despite the protracted nature of Plaintiff's pending applications. (*Id.* at 11-12.)

No party objected 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 Gregory J. Kelly's Report and Recommendation (Doc. 13) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. The Commissioner's decision is **REVERSED** and **REMANDED** for further administrative proceedings.
3. The Clerk is **DIRECTED** to enter judgement in favor of Plaintiff Jackie B. Gammon and against Defendant Commissioner of Social Security, and to close the file.

DONE AND ORDERED in Chambers in Orlando, Florida, on February 26, 2018.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record