

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

JAMES PATRICK FINNERTY III,

Plaintiff,

v.

Case No. 6:17-cv-980-Orl-37KRS

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**ORDER**

In this social security appeal, Plaintiff seeks review of the Commissioner's decision to deny him social security disability benefits. (Doc. 1.) As set forth in U.S. Magistrate Judge Karla R. Spaulding's Report and Recommendation ("**R&R**"), Plaintiff contends that the administrative law judge ("**ALJ**") erred by: (1) failing to discuss a physician's opinion that he could not lift more than ten pounds; and (2) considering only objective evidence when assessing credibility. (Doc. 17, p. 9.)

In her R&R, Magistrate Judge Spaulding rejected both of Plaintiff's assignments of error. (*Id.* at 9-12.) As to the physician's opinion, Magistrate Judge Spaulding found that the ALJ thoroughly considered the whole record; was not required to assign any weight to that opinion; and from the evidence the ALJ considered, the failure to discuss that opinion and explicitly weigh it was harmless. (*Id.* at 10.) As to credibility, Magistrate Judge Spaulding found the ALJ articulated explicit and adequate reasons to support his conclusion after considering the full record. (*Id.* at 11.) So she recommended rejecting

Plaintiff's challenges and affirming the Commissioner's final decision. (*Id.* at 9-12.)

Neither party filed objections, and the time for doing so has now passed. Absent objections, the Court has examined the R&R 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 none, 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 Karla R. Spaulding's Report and Recommendation (Doc. 17) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. The Commissioner's decision is **AFFIRMED**.
3. The Clerk is **DIRECTED** to:
  - a. Enter judgment in favor of Defendant Commissioner of Social Security and against Plaintiff James Patrick Finnerty III; and
  - b. Close the file.

**DONE AND ORDERED** in Chambers in Orlando, Florida, on June 21, 2018.



  
ROY B. DALTON JR.  
United States District Judge

Copies to:  
Counsel of Record