

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

THURMAN LEE SMITH,

Plaintiff,

v.

Case No: 6:17-cv-1174-ORL-18GJK

**NANCY A. BERRYHILL, ACTING
COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

ORDER

THIS CAUSE against Nancy A. Berryhill in her capacity as the Acting Commissioner of Social Security (“Commissioner”) was initiated on June 26, 2017, when Thurman Lee Smith (“Plaintiff”) filed a Complaint challenging the denial of his application for disability insurance benefits (“DIB”) under Title II of the Social Security Act (“Decision”). (*See* Doc. 1; Doc. 15-2, pp. 1–6, 11–28 (providing notice of unfavorable Decision and denial of administrative appeal).) Invoking 42 U.S.C. § 405(g), Plaintiff requests that the Court reverse the Decision and remand the matter to the Commissioner. (*See* Doc. 1; *see also* Doc. 17, p. 37.)

On September 21, 2017, the Commissioner filed an Answer to the Complaint (Doc. 13), a certified transcript of the administrative proceedings (Doc. 15), and notice that the parties do not consent to final disposition of the cause by a Magistrate Judge (Doc. 14). *See* 28 U.S.C. § 636(c). Absent consent, the cause was referred to United States Magistrate Judge Gregory J. Kelly (“Judge Kelly”) for issuance of a report and recommendation, *See* 28 U.S.C. § 636(b)(1); Local Rule 6.01(c)(21).) As directed by Judge Kelly, the parties filed a Joint Memorandum of Law setting forth their respective arguments regarding Plaintiff’s grounds for reversal of the Decision

("Disputed Issues"). (See Doc. 17, pp. 8-37; *see also* Doc. 16.) In the Report issued on April 17, 2018, Judge Kelly recommended that the Court affirm the Decision and enter judgment for the Commissioner. (See Doc. 18.)

Upon review, the Court may "accept, reject, or modify" the Report in whole or in part. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The Court has not reviewed the Report de novo because more than fourteen days have passed since the Report issued, and no objections were filed. *See Marcort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006); *Roundtree v. Bush Ross, P.A.*, 304 F.R.D. 644, 650 (M.D. Fla. 2015). Instead, upon review for clear error, the Court agrees with Judge Kelly's thorough analysis of the Disputed Issues and will adopt his recommendations. Accordingly, it is hereby **ORDERED** and **ADJUDGED** that:

1. The Report and Recommendation (Doc. 18) is **ACCEPTED, APPROVED, ADOPTED**, and is made part of this Order for all purposes, including appellate review.
2. Defendant Commissioner of Social Security's final administrative decision (Doc. 15-2, pp. 1-6, 11-28) is **AFFIRMED**.
3. The Clerk of Court is **DIRECTED** to: (a) enter judgment for the Defendant Acting Commissioner of Social Security and against Plaintiff Thurman Lee Smith; and (b) **CLOSE** this case.

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



G. KENDALL SHARP
SENIOR UNITED STATES DISTRICT JUDGE

Copies to:
Counsel of Record