

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

JACQUELINE HARRIS,

Plaintiff,

v.

Case No: 8:17-cv-1203-T-17JSS

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

This cause comes before the Court pursuant to the *Report and Recommendation* (Doc. No. 19) (the “**R&R**”) entered by United States Magistrate Judge Julie S. Sneed on December 18, 2017. Through the R&R, the Magistrate Judge recommends that (1) the decision of the Commissioner of Social Security denying the Plaintiff’s application for disability benefits be reversed, and (2) the case be remanded back to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). The Commissioner did not object to the R&R within the time permitted and, as a result, the R&R is deemed unopposed. For the reasons set forth below, the R&R is **ADOPTED AND INCORPORATED BY REFERENCE**.

I. Background

The Plaintiff commenced this case by filing a complaint for social security disability benefits on May 19, 2017. (Doc. No. 1). The Commissioner answered the complaint on August 9, 2017. (Doc. No. 10). On October 24, 2017, the Plaintiff filed her memorandum in opposition to the Commissioner’s decision, (Doc. No. 17), following which, on December 15, 2017, the Commissioner filed an unopposed motion to remand the case to

the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). Three days later, the Magistrate Judge entered the R&R, recommending that the Commissioner's decision be reversed and the case remanded pursuant to sentence four of 42 U.S.C. § 405(g).

II. Discussion

Under the Federal Magistrate's Act, 28 U.S.C. §§ 631, *et seq.*, Congress vested Article III judges with the power to "refer all Social Security benefit cases to United States magistrates for preliminary review of the administrative record, oral argument, and preparation of a recommended decision as to whether the record contains substantial evidence to support the administrative determination." *Mathews v. Weber*, 423 U.S. 261, 263 (1976); *see also* 28 U.S.C. § 636(b)(3) ("A magistrate judge may be assigned such additional duties as are not inconsistent with the Constitution and laws of the United States."). "Within fourteen days after being served with a copy [of a magistrate's report and recommendation], any party may serve and file written objections to such proposed findings and recommendations." 28 U.S.C. § 636(b)(1). On review by the district court, "the court shall make a de novo determination of those portions of the report . . . to which objection is made." *Id.* When no timely and specific objections are filed, case law indicates the court should review the findings using a clearly erroneous standard. *Gropp v. United Airlines, Inc.*, 817 F.Supp. 1558, 1562 (M.D. Fla. 1993).

Here, neither party objected to the R&R within the time permitted. As a result, the Court deems the R&R to be unopposed and reviews Magistrate Sneed's recommendations under a clearly erroneous standard. Upon due consideration and independent review of the record, the Court concurs with the R&R.

III. Conclusion

Accordingly, it is

ORDERED that the R&R is **ADOPTED** and **INCORPORATED BY REFERENCE**.

The Commissioner's Decision is **REVERSED** and the case is **REMANDED** under sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with the Magistrate Judge's recommendations. The Clerk of Court is directed to enter judgment for the Plaintiff and against the Commissioner consistent with the R&R, and to close this case and terminate any pending motions.

DONE and **ORDERED** in Chambers, in Tampa, Florida this 2nd day of January, 2018.



ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record