



Reyes-Ayala v. Commissioner of Social Security

2019 | Cited 0 times | D. Puerto Rico | March 14, 2019

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

JOSE RAMON REYES, et al.,

Plaintiffs, v. COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Civil No. 18-1046 (ADC)

OPINION AND ORDER Currently before the Court is U.S. Magistrate Judge Marcos E. López's Report and Recommendation ("the R&R") recommending that the Court affirm the Commissioner of Social Security's decision in the instant case. ECF No. 18. No objections to the R&R have been filed.

I. Procedural History On January 30, 2018, plaintiff José Ramón Reyes ("Reyes" or "plaintiff") filed a complaint against the Commissioner of Social Security ("the Commissioner" or "defendant") requesting judicial review of a final decision by the Commissioner which denied plaintiff's application for Social Security disability insurance benefits. ECF No. 1. In his memorandum of law in support of his complaint, plaintiff asserts, in essence, that the Commissioner's decision "is not based on substantial evidence as required by 42 U.S.C. § 405(g) and that the Commissioner erred as a matter of law in determining that he is not entitled to [Social Security disability insurance]

benefits." ECF No. 11 at 1. Plaintiff requests that the Commissioner's decision be "rescinded and the plaintiff be awarded full benefits." Id. at 29. In the alternative, plaintiff requests that the case be remanded to the Commissioner "for a de novo hearing with medical experts and a vocational expert." Id. at 30.

On June 5, 2018, the Court referred the case to U.S. Magistrate Judge Marcos E. López for the issuance of a Report and Recommendation ("R&R") or for disposition of the case. ECF Nos. 9, 10. On February 14, 2019, the Magistrate Judge entered the R&R, recommending that the Commissioner's decision be affirmed. reversed and that case be remanded for further proceedings. ECF No. 18. As mentioned above, no objections have been filed to the R&R.

II. Standard of Review of an Unopposed Report and Recommendation



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A district court may refer pending civil actions or proceedings to a magistrate judge for a report and recommendation. 28 U.S.C. §636(b)(1)(B); Fed. R. Civ. P. 72(b); D.P.R. Civ. R. 72(a). The court is free to accept, reject, or modify, in whole or in part, the findings or recommendations by the magistrate judge. 28 U.S.C. §636(b)(1). A party is entitled to a de novo review of “those portions of the report . . . to which specific objection is made.” *Sylva v. Culebra Dive Shop*, 389 F. Supp. 2d 189, 191-92 (D.P.R. 2005) (citing *United States v. Raddatz*, 447 U.S. 667 (1980)). Absent a proper objection, though, the Court need only satisfy itself that there is no plain error in the Magistrate Judge’s findings in order to adopt the same. *López-Mulero v. Vélez Colón*, 490 F. Supp. 2d 214, 217-218 (D.P.R. 2007); see also Fed. R. Civ. P. 72, Adv. Comm. Notes, subdivision (b)

(1983). Thus, “a party’s failure to assert a specific objection to a report and recommendation irretrievably waives any right to review by the district court and the court of appeals.” *Santiago v. Canon U.S.A., Inc.*, 138 F.3d 1, 4 (1st Cir. 1998).

III. Conclusion After careful consideration of the law, the record, the parties’ pleadings and evidence, and the unopposed R&R, the Court wholly ADOPTS U.S. Magistrate Judge Marcos E. López’s findings and recommendations. Accordingly, plaintiff’s petition for review is DENIED and the Commissioner’s decision in the instant case is AFFIRMED.

The Clerk of the Court shall enter judgment accordingly. SO ORDERED. At San Juan, Puerto Rico, this 13th day of March, 2019.

S/AIDA M. DELGADO-COLÓN United States District Judge

