

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

BRIAN E. BARTRUFF,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 12-571-GPM
)	
MICHAEL J. ASTRUE, Commissioner of Social Security,)	
)	
Defendant.)	
)	
)	
)	

MEMORANDUM AND ORDER

MURPHY, District Judge:

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Clifford J. Proud (Doc. 19), recommending that Defendant’s final decision regarding Plaintiff’s disability insurance benefits be reversed and that this action be remanded for further proceedings. In the Report and Recommendation, Magistrate Judge Proud finds that the Administrative Law Judge’s determination of medical improvement was erroneous because it was not based on a comparison of the prior and current medical evidence. Magistrate Proud further finds that the Administrative Law Judge failed to support his assessment of Plaintiff’s residual function capacity (“RFC”) with substantial evidence. Magistrate Judge Proud recommends that Defendant’s decision be reversed and remanded under sentence four of 42 U.S.C. § 405(g).

The Report and Recommendation was entered on January 10, 2013. No timely objections have been filed.

Where timely objections are filed, this Court must undertake a *de novo* review of the Report and Recommendation. 28 U.S.C. § 636(b)(1)(B), (C); FED.R.CIV.P. 72(b); SDIL-LR 73.1(b); *Kanter v. Commissioner of Internal Revenue*, 590 F.3d 410, 416 (7th Cir. 2009); *Goffman v. Gross*, 59 F.3d 668, 671 (7th Cir. 1995). The Court “may accept, reject or modify the magistrate judge’s recommended decision.” *Harper v. City of Chicago Heights*, 824 F.Supp.786, 788 (N.D. Ill. 1993). In making this determination, the Court must look at all of the evidence contained in the record and “give ‘fresh consideration to those issues to which specific objections have been made.’” *Id.*, quoting 12 Charles Alan Wright et al., *Federal Practice and Procedure* § 3076.8, at p. 55 (1st ed. 1973) (1992 Pocket Part).

However, where neither timely nor specific objections to the Report and Recommendation are made, pursuant to 28 U.S.C. § 636(b), this Court need not conduct a *de novo* review of the Report and Recommendation. See *Thomas v. Arn*, 474 U.S. 140 (1985). Accordingly, the Court **ADOPTS** Magistrate Judge Proud’s Report and Recommendation (Doc. 19).¹ Defendant’s final decision regarding Plaintiff’s disability insurance benefits and benefits pursuant to 42 U.S.C. § 423 is **REVERSED** and **REMANDED** for rehearing and reconsideration of the evidence under sentence four of 42 U.S.C. § 405(g). Pursuant to sentence four of § 405(g) and Federal Rule of Civil Procedure 58, the Clerk of Court is **DIRECTED** to enter judgment of reversal and remand.

IT IS SO ORDERED.

DATED: February 8, 2013

s/_____
G. PATRICK MURPHY
United States District Judge

¹While a *de novo* review is not required, the Court fully agrees with the findings, analysis, and conclusions of Magistrate Judge Proud.