

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JOSEPH HUGHES

v.

KENNETH S. APFEL

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* Civil No. JFM-00-2394

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MEMORANDUM

On May 4, 2001, Magistrate Judge Daniel E. Klein, Jr. entered an amended Report and Recommendation in which he recommended that plaintiff's motion for summary judgment be denied and that defendant's motion for summary judgment be granted.¹ Plaintiff has filed timely exceptions to Magistrate Judge Klein's Report and Recommendation. In accordance with Fed. R. Civ. P. 72(b), I have made a de novo determination concerning the propriety of the Administrative Law Judge's ruling and find that Judge Klein reached the appropriate conclusion. Accordingly, I will adopt his Report and Recommendation as my own opinion. I will simply add, in response to the specific exceptions lodged by plaintiff, that I am unpersuaded that there is a fatal inconsistency between the ALJ's finding that plaintiff's "nonexertional limitations restrict him to the performance of simple, unskilled work" and the fact that the job of chauffeur is classified as "semi-skilled" by the Dictionary of Occupational Titles and by Social Security Ruling 00-4p for purposes of "specific vocational preparation time." The ALJ reviewed plaintiff's own work history and determined that he could continue to drive, clean, and

¹Magistrate Judge Klein had issued his original Report and Recommendation on April 23, 2001. The reasoning of the Report clearly dictated the conclusion that plaintiff's motion for summary judgment be denied and that defendant's motion be granted. The conclusion of the Report, however, erroneously granted plaintiff's motion and denied defendant's motion. The amended Report and Recommendation simply corrected this error.

prepare cars for rental to customers as he had previously been required by his employer to do. This finding is sufficient. See Pass v. Chater, 65 F.3d 1200, 1207 (4th Cir. 1995).

A separate order effecting the ruling made in this memorandum is being entered herewith.

Date: May 30, 2001

/s/

J. Frederick Motz

United States District Judge

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ORDER

For the reasons stated in the accompanying memorandum, it is, this 30th day of May 2001

ORDERED

1. The amended Report and Recommendation of Magistrate Judge Daniel E. Klein entered on May 4, 2001, as supplemented by the accompanying memorandum, is adopted as this court's own opinion;
2. Plaintiff's motion for summary judgment is denied;
3. Defendant's motion for summary judgment is granted; and
4. Judgment is entered in favor of defendant against plaintiff.

/s/

J. Frederick Motz
United States District Judge