

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 9:19-CV-81599-ROSENBERG/REINHART

ANNIE MANTZ o/b/o
ANTHONY JAY DUNKLEY, JR.

Plaintiff,

v.

ANDREW SAUL, Commissioner
of the Social Security Administration,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION,
GRANTING MOTION TO DISMISS AMENDED COMPLAINT, AND CLOSING CASE**

This matter is before the Court upon a Report and Recommendation on Defendant’s Motion to Dismiss the Amended Complaint. DE 35. The case previously was referred to the Honorable Bruce E. Reinhart, United States Magistrate Judge for the Southern District of Florida, for a Report and Recommendation on any dispositive matters. DE 2. Judge Reinhart issued the Report and Recommendation on May 4, 2021, recommending that Defendant’s Motion to Dismiss be granted and that this case be dismissed for lack of subject matter jurisdiction.

Plaintiff has not objected to the Report and Recommendation, and the time for filing Objections has passed. Defendant filed a Limited Objection to the Report and Recommendation. DE 36. Defendant objects to Judge Reinhart’s statement that Claimant “could have appealed the [dismissal of his reconsideration request] to the next level by requesting a hearing before an administrative law judge.” *Id.* at 2 (quoting DE 35 at 9). Defendant argues that “the claimant was

not entitled to seek further review to complete the four-step appeal process because when the agency dismissed his reconsideration request, he had no right to further appeal that dismissal.”

Id. at 2.


The Court has reviewed the Report and Recommendation, Defendant’s Limited Objection, and the record and is otherwise fully advised in the premises. The Court finds Judge Reinhart’s conclusions and recommendation to be well reasoned and correct and agrees with the analysis in the Report and Recommendation. As to Defendant’s Limited Objection, regardless of whether Claimant could have sought further review under Social Security Administration policy at the administrative level, Claimant did not seek such review, and therefore this Court lacks subject matter jurisdiction. *See* 42 U.S.C. § 405(g); *Sims v. Apfel*, 530 U.S. 103, 107 (2000). Defendant’s Limited Objection to the Report and Recommendation is sustained, but the outcome of the case remains unchanged.

For the foregoing reasons, it is hereby **ORDERED and ADJUDGED** that:

1. Magistrate Judge Reinhart’s Report and Recommendation [DE 35], supplemented by this Order, is **ADOPTED** as the Order of the Court.
2. Defendant’s Motion to Dismiss the Amended Complaint [DE 27] is **GRANTED**. This case is **DISMISSED** for lack of subject matter jurisdiction.
3. Defendant’s Limited Objection [DE 36] is **SUSTAINED**.
4. The Clerk of the Court shall **CLOSE THIS CASE**. All deadlines are **TERMINATED**.

DONE and ORDERED in Chambers, West Palm Beach, Florida, this 19th day of July, 2021.

Copies furnished to:
Plaintiff; Counsel of Record


ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE