

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

TIMOTHY HUNT,  
Plaintiff,

v. Civil Action No. 1:11-cv-00319

MICHAEL J. ASTRUE,  
Commissioner of Social Security.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of findings and recommendations pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge VanDervort submitted to the court his Findings and Recommendation on December 6, 2011, in which he recommended that the District Court grant the Defendant's Motion for Remand (Doc. # 12.) and remand Plaintiff's case to the Commissioner pursuant to the sixth sentence of 42 U.S.C. § 405(g) for further proceedings as outlined in the unopposed Motion.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. The failure of any party to file such objections constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

The parties failed to file any objections to the Magistrate Judge's Findings and Recommendation within the seventeen-day period. Having reviewed the Findings and Recommendation filed by Magistrate Judge VanDervort, the court adopts the findings and recommendations contained therein, **GRANTS** the Defendant's Motion for Remand and **REMANDS** Plaintiff's case to the Commissioner pursuant to the sixth sentence of 42 U.S.C. § 405(g) for further proceedings as outlined in the unopposed Motion.

Because the case is remanded pursuant to sentence six of 42 U.S.C. § 405(g), the court "does not rule in any way as to the correctness of the administrative determination." Melkonyan v. Sullivan, 501 U.S. 89, 98, 111 S.Ct. 2157, 2163, 115 L.Ed.2d 78 (1991). The court shall retain jurisdiction over the case.

In view of Judge VanDervort's recommendation, the Clerk is directed to close the case statistically. The case is to be reopened when Defendant files an Answer or other pleading responsive to the Plaintiff's complaint along with a transcript of the administrative proceedings.

The Clerk is directed to forward a copy of this Memorandum Opinion and Order to counsel of record.

It is **SO ORDERED** on this 1st day of February, 2012.

ENTER:



David A. Faber

Senior United States District Judge