

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

ERICA COLEMAN WHEELER,

Plaintiff,

v.

CIVIL ACTION NO. 1:11-00451

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge VanDervort submitted to the court his Findings and Recommendation on April 12, 2012, in which he recommended that the court grant defendant's motion to remand, reverse or vacate the final decision of the Commissioner, remand the case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings as outlined in defendant's unopposed motion to remand, and dismiss this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), plaintiff was allotted fourteen days and three mailing days in which to file any objections to Magistrate Judge VanDervort's Proposed Findings and Recommendation. The failure of any party to file such objections within the time allowed 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).


Neither party filed any objections to the Magistrate Judge's Findings and Recommendations within the required time period. Accordingly, the court adopts the Findings and Recommendations of Magistrate Judge VanDervort as follows:

1. Defendant's Motion to Remand is **GRANTED**;
2. The final decision of the Commissioner is **REVERSED** or **VACATED**;
3. The case is **REMANDED** to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings as outlined in the Proposed Findings and Recommendation; and
4. This Clerk is directed to remove this case from the court's active docket.

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

IT IS SO ORDERED this 14th of May, 2012.

ENTER:



David A. Faber
Senior United States District Judge