

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

JERRY D. COPLEY,

Plaintiff,

v.

CIVIL ACTION NO. 2:08-0297

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order entered August 1, 2006, and filed in this case on May 8, 2008, this action was referred to United States Magistrate Judge Mary E. Stanley for submission of proposed findings and recommendation. Magistrate Judge Stanley submitted her proposed findings and recommendation ("PF & R") on June 22, 2009. (Doc. No. 14.) In that PF & R, the magistrate judge recommended that this court 1) reverse the final decision of the Commissioner, 2) remand this case to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings, and 3) dismiss this matter from the court's docket. (Id. at 18.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge Stanley's PF & R. No party has filed objections within the requisite period, and 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); Thomas v. Arn, 474 U.S. 140 (1985).

Having reviewed the PF & R filed by the magistrate judge (Doc. No. 14), the court adopts the findings and recommendations contained therein. Accordingly, the court hereby **REVERSES** the decision of the Commissioner and **REMANDS** this case to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings. By separate Judgment Order entered of even date, the court enters judgment in favor of plaintiff. See Shalala v. Schaefer, 509 U.S. 292, 297-98 (1993) (holding that such a remand requires entry of final judgment).

The Clerk is directed to remove this matter from the court's active docket and to forward a copy of this written Memorandum Opinion and Order to counsel of record.

It is **SO ORDERED** this 16th day of July, 2009.

ENTER:



David A. Faber

Senior United States District Judge