

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

MARK L. JEFFREY,

Plaintiff,

v.

CIVIL ACTION NO. 5:10-cv-01180

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

**MEMORANDUM OPINION AND ORDER**

The Court has reviewed Plaintiff's Complaint (Document 1), which seeks review of the Commissioner of Social Security's ("Commissioner") final decision denying the Plaintiff's application for Disability Insurance Benefits ("DIB"), under Title II of the Social Security Act, 42 U.S.C. §§ 401-433. The Court has also reviewed Plaintiff's motion for judgment on the pleadings (Document 7), Defendant's motion for judgment on the pleadings (Document 8) and Plaintiff's reply (Document 9). By Standing Order (Document 3) entered on October 4, 2010, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On February 1, 2012, the Magistrate Judge submitted Proposed Findings and Recommendation ("PF&R") (Document 10), wherein it is recommended that this Court grant Plaintiff's Motion for Judgment on the Pleadings, deny Defendant's Motion for Judgment on the Pleadings, vacate the Commissioner's final decision, remand this matter for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g), and dismiss this matter from the Court's docket.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir.1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.1982). Objections to the PF&R in this case were due on February 21, 2012. To date, no party has filed objections to the Magistrate Judge's PF&R.

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the Proposed Findings and Recommendation (Document 10), and **ORDERS** that Plaintiff's motion for judgment on the pleadings (Document 7) be **GRANTED** and Defendant's motion for judgment on the pleadings (Document 8) be **DENIED**. The Court further **ORDERS** the Commissioner's final decision be **VACATED** and this matter be **REMANDED** for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g). Finally, the Court **ORDERS** this matter be **DISMISSED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: February 22, 2012



IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA