

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

VEVERLY BROOKS, as mother)
and next friend of L.K.D., a minor child,)
)
Plaintiff,)
)
v.)
)
NANCY A. BERRYHILL, Acting)
Commissioner of Social Security)
Administration,)
)
Defendant.)

CV 117-114

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation ("R&R"), to which objections have been filed. (Doc. no. 7.) Nothing in Plaintiff's objections warrants deviation from the Magistrate Judge's recommendation.

On October 4, 2017, the Court ordered Plaintiff to "show cause as to why the Court should not dismiss this case for improper representation" or obtain counsel within 60 days. (Doc. no. 3.) After Plaintiff failed to respond, the Magistrate Judge recommended Plaintiff's case be dismissed for failure to prosecute under Local Rule 41.1. (Doc. no. 5.) Plaintiff filed objections, stating she "wasn't able to reply to the Court's letter . . ." but giving no explanation for the failure. (Doc. no. 7, p. 2.) Plaintiff again requested permission to

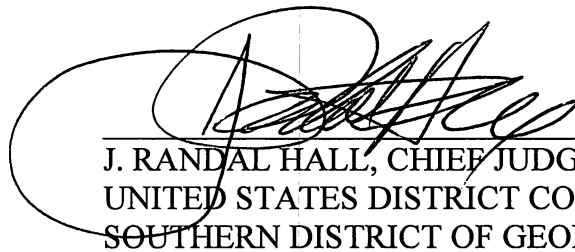
represent her daughter in this case without providing any legal basis for the Court allowing her to do so. (Id.)

Plaintiff's objections do not cure her failure to respond to the October 4th Order within the time frame established by the Court. Furthermore, even if the Court were to consider Plaintiff's objections a proper response to the Order, Plaintiff has still failed to either obtain counsel or explain why this Court should depart from the law of this circuit, which provides "a non-attorney parent generally must be represented by counsel in bringing an action on behalf of his or her child." Oliver v. Southcoast Med. Grp., LLC, No. 411-CV-115, 2011 WL 2600618, at *1 (S.D. Ga. June 13, 2011); see also Peake ex rel. K.R.D. v. Comm'r of Soc. Sec., No. 606-CV-1863, 2008 WL 495377, at *1 & n.1 (M.D. Fla. Feb. 20, 2008) (prohibiting non-attorney parent from representing her child in appeal of denial of application of Social Security benefits but recognizing cases from other circuits permitting non-attorney parents to represent children in such cases); Black v. Colvin, No. CA 14-00165-CG-C, 2015 WL 6082112, at *1 (S.D. Ala. Sept. 17, 2015) (citing Peake as stating "general rule in the Eleventh Circuit"). Thus, even if Plaintiff's objections were sufficient to cure her earlier failure to prosecute, the case would warrant dismissal based on Plaintiff's inability to represent her child *pro se*.

Accordingly, the Court **OVERRULES** Plaintiff's objections, **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion, **DISMISSES** this case without

prejudice, and **CLOSES** this civil action.

SO ORDERED this 17th day of January, 2018, at Augusta, Georgia.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA