

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CYNTHIA L. SPARR,

Plaintiff,

Case No. 14-cv-11529

Hon. Matthew F. Leitman

v.

CAROLYN W. COLVIN, ACTING
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION (ECF #21)
AND DENYING DEFENDANT'S MOTION TO DISMISS (ECF #17)

On September 22, 2014, Defendant Carolyn W. Colvin, Acting Commissioner of Social Security (the "Commissioner"), moved to dismiss this action for failure to prosecute. (*See* the "Motion to Dismiss," ECF #17.) The Commissioner noted that the deadline for Plaintiff Cynthia L. Sparr ("Sparr") to file a motion for summary judgment had passed and that Sparr had not filed her motion nor requested an extension of time. (*See id.*)

On January 9, 2015, Magistrate Judge R. Steven Whalen recommended that this Court deny the Commissioner's Motion to Dismiss. (*See* the "Report and Recommendation," ECF #21.) The Magistrate Judge accepted Sparr's counsel's explanation that "her failure to comply with this Court's scheduling order was the

result of errors made by an administrative assistant who ... was suffering from cognitive difficulties as the result of an illness.” (*Id.* at 2-3.) The Magistrate Judge granted Sparr an extension of time to submit her motion for summary judgment. (*See* ECF #22.) The Commissioner did not object to the Report and Recommendation.

Sparr has now submitted her summary judgment motion. (*See* ECF #30.) In light of the “strong policy favoring adjudication on the merits,” *see Morgan v. Gandalf, Ltd.*, 165 Fed. App’x 425, 430 (6th Cir. 2006), the Court declines to dismiss the action on the ground that Sparr’s motion was untimely.

Accordingly, **IT IS HEREBY ORDERED** that the Report and Recommendation (ECF #21) is **ADOPTED**. **IT IS FURTHER ORDERED** that the Commissioner’s Motion to Dismiss (ECF #17) is **DENIED**.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: April 24, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 24, 2015, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
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