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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

Plaintiff,	Case No. 19-10357
vs.	HON. MARK A. GOLDSMITH
NANCY A BERRYHILL,	
Defendant.	

OPINION & ORDER

(1) ACCEPTING THE RECOMMENDATION CONTAINED IN THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION DATED FEBRUARY 11, 2020 (Dkt. 20), (2) DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (Dkt. 12), AND (3) GRANTING DEFENDANT'S MOTION TO REMAND (Dkt. 14)

This matter is presently before the Court on the Report and Recommendation (R&R) of Magistrate Judge R. Steven Whalen, issued on February 11, 2020 (Dkt. 20). In the R&R, the Magistrate Judge recommends that the Court deny Plaintiff Dianera Nehr's motion for summary judgment (Dkt. 12), grant Defendant Nancy A. Berryhill's motion to remand (Dkt. 14), and remand this matter to the Commissioner of Social Security for further administrative proceedings.

The parties have not filed objections to the R&R, and the time to do so has expired. <u>See</u> Fed. R. Civ. P. 72(b)(2). The failure to file a timely objection to an R&R constitutes a waiver of the right to further judicial review. <u>See Thomas v. Arn</u>, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a <u>de novo</u> or any other standard, when neither party objects to those findings."); Smith v. Detroit Fed'n of Teachers, 829 F.2d 1370, 1373-1374 (6th Cir. 1987)

(failure to file objection to R&R "waived subsequent review of the matter"); Cephas v. Nash,

328 F.3d 98, 108 (2d Cir. 2003) ("As a rule, a party's failure to object to any purported error or

omission in a magistrate judge's report waives further judicial review of the point."); Lardie v.

Birkett, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) ("As to the parts of the report and

recommendation to which no party has objected, the Court need not conduct a review by any

standard."). However, there is some authority that a district court is required to review the R&R

for clear error. See Fed. R. Civ. P. 72 Advisory Committee Note Subdivision (b) ("When no

timely objection is filed, the court need only satisfy itself that there is no clear error on the face

of the record in order to accept the recommendation."). Therefore, the Court has reviewed the

R&R for clear error. On the face of the record, the Court finds no clear error and accepts the

recommendation.

Accordingly, Plaintiff's motion for summary judgment (Dkt. 12) is denied. Defendant's

motion to remand (Dkt. 14) is granted. This matter is remanded the Commissioner of Social

Security for further administrative proceedings. In accordance with the R&R, the matter is to be

assigned to a different administrative law judge.

SO ORDERED.

Dated: February 27, 2020

Detroit, Michigan

s/Mark A. Goldsmith

MARK A. GOLDSMITH

United States District Judge

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