

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:16-CV-216-BO

JESSICA NIKITA LAWSON, on behalf of)
J.N.F., a minor child,)
Plaintiff,)
v.)
SOCIAL SECURITY ADMINISTRATION,)
Defendant.)

ORDER

This matter is before the Court on the Memorandum and Recommendation (“M&R”) of United States Magistrate Judge Kimberly A. Swank, pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b). [DE 20]. For the following reasons, the Court adopts the M&R.

BACKGROUND

Plaintiff protectively filed an application for SSI on February 28, 2012, alleging disability beginning April 19, 2008. The application was denied initially and upon reconsideration, and a request for hearing was filed. On September 29, 2014, a hearing was held before Administrative Law Judge Wanda L. Wright, who issued an unfavorable ruling on March 19, 2015. On June 10, 2016, the Appeals Council denied review.

On August 4, 2016, plaintiff filed for judicial review of the final administrative decision pursuant to 42 U.S.C. § 405(g), and requested that she be permitted to proceed *in forma pauperis* (“IFP”). [DE 1]. The Court granted plaintiff’s IFP motion on August 25, 2016, and the complaint was docketed the same day. [DE 6, 7]. On December 7, 2016, the Court issued a notice informing the parties that the matter would proceed by motions for judgment on the pleadings and outlining the timelines for filing said motions. [DE 19]. No further action was taken by either

plaintiff or defendant, and the time for the filing of plaintiff's motion for judgment on the pleadings expired on February 6, 2017.

On May 17, 2017, Magistrate Judge Swank entered an M&R recommending that the Court issue an order requiring plaintiff to show cause, if any, why she should not be removed from the case and a guardian ad litem appointed to represent the interests of the minor child in this matter. [DE 20]. Magistrate Judge Swank further recommended that, in the event the Court finds either that plaintiff does not meet the standard described in 20 C.F.R. § 416.1505 or that other reasons exist for plaintiff's removal, that the Court appoint a guardian ad litem to protect the interests of the minor pursuant to Fed. R. Civ. P. 17(c)(2). *Id.* No objections to the M&R were filed within the time allowed.

DISCUSSION

“The Federal Magistrates Act requires a district court to make a *de novo* determination of those portions of the magistrate judge's report or specified proposed findings or recommendations to which objection is made.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); *see* 28 U.S.C. 636(b). Absent timely objection, “a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond*, 416 F.3d at 315 (quotation omitted).

Here, despite being warned as to the consequences, plaintiff made no objection to the M&R. Having considered the M&R and record, the Court is satisfied that there is no clear error on the face of the record and accepts the Magistrate Judge's recommendation.

CONCLUSION

For the foregoing reasons, the Court ADOPTS the Magistrate Judge's M&R in its entirety. [DE 20]. Accordingly, plaintiff is ORDERED to show cause, if any, why she should not be removed from the case and a guardian ad litem appointed to represent the interests of the minor child in this matter. Plaintiff shall have until **July 31, 2017** to file such notice with the Court.

SO ORDERED, this 30 day of ^{June}, 2017.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE